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# The Significance of the Proposals for Reorganisation of Tyneside Government

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[Paper read to the Lancashire Urban District Councils]

## I.—INTRODUCTION

THE recommendations of the Commission on Local Government in the Tyneside Area have been recognised in local government circles as relevant not only to conditions on Tyneside but to conditions in the many other similar conurbations, and as likely, if accepted, to lead to profound alterations in the general machinery of local government. It will be one of the objects of this paper to elicit and clarify such general bearings as the recommendations may have, but it may be said at the outset that these are real and considerable.

We of the municipal boroughs and urban districts are by this time somewhat inured to proposals for larger areas which would leave us with a future of greatly diminished power and prestige. The County Boroughs have hitherto gone their way largely untroubled by such anxieties, serene in the vision of an unchallenged hegemony. Out of the blue sky there now comes a bolt which would reduce a City and County Borough of over a quarter of a million to an authority whose scope and functions would be less than those of even the smaller urban districts.

When every allowance has been made for local conditions it is clear, moreover, that an acceptance of the principles on which the Commissioners' recommendations are based would justify a radical reformation of the existing hierarchy of local government authorities. Since it was completed by the Act of 1894 this structure has been inviolate—much as the apportionment of functions among the various members has shifted from time to time.

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Finally, the report carries the doctrine of "regionalism" well into the sphere of practical politics.

That certain services require an area of operation or administration wider than the largest single city, and in some instances than even a single county, is now a familiar view. Proposals for such wider areas have long been under discussion in the case of electric supply, water supply and road passenger transport; and in some cases developments have taken, or are about to take, place. In the non-utility sphere proposals of this kind have been less frequent though not entirely absent. The Hadow Report, for example, recommended regional authorities for all forms of education as the ultimate form of organisation, after a transitional stage in which (although there would be a large assimilation of the functions of secondary and elementary education, achieved mostly by a substantial transfer to County Council or County Borough responsibility) no new type of authority would be created.

To the list of services for which regional units have been officially or influentially advocated, the Report makes extensive additions. Save in the case of transport—for which the Commissioners recommend the appointment of an *ad hoc* passenger transport board—the Report does not, it is true, repeat the advocacy of regionalism for the utility undertakings, for the simple reason that those in Tyneside are not in the local authorities' hands. It considers, however, as suited for regional areas no less a range of purely local government services than the following: Education, Public Health (Medical and Clinical services), Fire Brigade Organisation, Highways, Public Assistance, and Police.

If these services are deemed regional on principle, and the principle is sound, then, bearing in mind that in other regions utilities are in local authority control for which regionalisation is already in prospect, it is clear that an acceptance of the Tyneside Report must mean that all the major functions of local government will no longer be administered by any known member of the local government hierarchy.

Forbearing for the time being from any comment on such a prospect—which may well give pause to those who, like myself, have advocated regionalism in certain spheres long before regionalism became popular as a "cure-all"—we may pass to indicate one further feature in the general implications of the Report.

For the first time an official tribunal has pronounced upon the general form of the organism it considers most suitable where several services are to branch out on regional lines.

Hitherto this question has received attention only from personal students of local government. Tribunals advancing the need for

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regional areas have stopped short of indicating the means—or have assumed that *ad hoc* bodies would be created, and have not proceeded to consider the effect of such a course either upon the residue of local government functions or upon the administrative standards of the particular service involved.

The earliest and in some respects the best description of the situation which the need for regionalism would create, of the conditions which should be fulfilled by a system of regional administration, of the defects of indirectly elected authorities, and of the disadvantages of creating a number of separate *ad hoc* regional bodies, is to be found in the chapter on Local Government in the Webbs' "Constitution for a Socialist Commonwealth." Those who dislike the idea of a Socialist Commonwealth should not be deterred on that account from reading at any rate that chapter—which is purely an excursion into administrative science. There the Webbs put forward their plan—subsequently dubbed, for obvious reasons, the Globe-Wernicke plan—for a new machinery of Local Government which would secure at once ideal conditions for both the large-scale and small-scale services. They based it upon the establishment of a ward or parish (doubtless larger than that known to-day) as the fundamental unit, leaving the wards to be grouped and their representatives to sit together as a Council, according to the particular service, *e.g.*, for local roads five ward representatives might sit, for housing ten, and for electricity supply fifty. The strong points of this plan are that it allows the choice of the best area for each service, avoids the inherent vices of indirectly elected bodies and the evil effects of separating services among a number of *ad hoc* bodies, and, by retaining in each ward a representative who would be a "general representative," preserves the interest in local elections.

I have never been able to discover any intrinsic objection to this plan from the administrative point of view, but I have never thought it likely to be applied by any Government. To judge from my experience of financial adjustment of relatively minor scope, the financial adjustment consequential upon such a radical change would itself take years to work out.

In the "Future of Local Government," Mr. G. D. H. Cole, following data in Fawcett's "Provinces of England," put forward an alternative course. Granted no one area is best for all purposes, we have to compromise. Let us therefore take the regional conurbations broadly as we find them, determine our regional services, and let one regional body administer the lot. So far as I can recollect he did not mind whether such a body was directly or indirectly elected, though it is only fair to add that for the evils which the Webbs found in *ad hoc* authorities of both types he had certain

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remedies derived from his political philosophy with which an administrator can have no concern, and which in any event seem more remote of achievement than when he wrote.

In contemplating a regional body which will undertake a "complex" of functions, the Commission have arrived at Mr. Cole's solution (I will not say they have accepted his view, because I doubt whether they know of it). They have discarded the idea of the indirectly elected joint board established *ad hoc* for each service. For thus discarding the expedient which has hitherto been resorted to in the limited amount of regionalism which has so far taken place, they offer no detailed reasons. Their single reference to the "undemocratic character" which these bodies tend to assume does, however, imply that they had much the same reasons in mind as were adduced by the Webbs from an examination of the functioning of these bodies in various instances and at different periods of local government development. It is a pity that there was not a fuller argument of the issue in the Commission's Report, even if their conclusion is right. I hope to touch on this issue in the sequel.

It is also disappointing to find that the Commission give no precise indication of the constitution of the proposed regional authority. Paragraph 201 constitutes the only expression of their view, and this is brief and vague. "The creation of this new authority (the Northumberland Regional Council) will of necessity involve the reconstruction of the present Northumberland County Council. We think that the existing administrative machinery of the Northumberland County Council should form the nucleus of the Northumberland Regional Council." Since the Commission have found (conveniently found, some may say) their ideal region in the area of one County Council plus the Tyneside conurbation, the problem is simpler than it would be in the case of regionalisation elsewhere. It is not in many places that the ideal area for regionalisation (or even a worth-while area) would be found to affect only one County Council. Indeed, in the Commission's Report regionalisation seems to look very much like taking the existing County Council (with a slight enlargement of boundary to include the urban areas of the Tyne) and making it a regional authority simply by adding to its functions as a County Council.

Is that what regionalism will come to mean? Will it resolve itself into a mere reorganisation of County boundaries, and the establishment of the County Council as the major local authority of our system?

It is impossible to answer these questions or further to indicate the general implications of the Report, or to discuss its merits, with-

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out setting forth some description of the Area with which the Commission had to deal, and an account of their conclusions.

### II.—THE COMMISSION'S PLAN

The area over which the inquiry was to extend was defined by the Commission's terms of reference so as to limit it to east and west, but not to north and south.

The proposals affect the following authorities. The Report gives particulars of their functions, which local government personnel can broadly deduce from the list, so that I do not cite particulars.

North of the Tyne:—

- The Administrative County of Northumberland.
- The City and County of Newcastle-upon-Tyne.
- The County Borough of Tynemouth.
- The Borough of Wallsend.
- The Urban District of Gosforth.
- The Urban District of Newburn.
- The Urban District of Whitley and Monkseaton.

South of the Tyne:—

- The Administrative County of Durham.
- The County Borough of Gateshead.
- The County Borough of South Shields.
- The Borough of Jarrow.
- The Urban District of Hebburn.
- The Urban District of Felling.
- The Urban District of Whickham.
- The Urban District of Blaydon.
- The Urban District of Ryton.

Apart from the two County Councils, the existing authorities so situate are, it will be noted, all urban; and on each side there are representatives of the three types—County Borough, Borough, and Urban Districts.

#### *Recommendations of the Majority Report*

All except one of the Commissioners agreed upon recommendations previously referred to as those of the Commission, and these can be summarised as follows:—

The system of local government now in force on Tyneside does not allow of the numerous local government services being administered in the most efficient and economical manner and, therefore, the full benefits capable of being derived from these services are not available over the whole area.

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Local government services should be divided into two categories, viz.:—

- (a) those services which are “preponderantly national in character, and which should be administered more economically and more efficiently over large areas.” These the Commissioners specify as public health, medical (but not environmental, *i.e.*, sanitary services), including mental hospitals and mental deficiency institutions, education, public assistance, police, fire brigade, and highways.
- (b) those services which are “local in character, conferring upon ratepayers direct benefit more or less commensurate with the equivalent rate burden.”

For the “regional” services, an area larger than any local government area at present existing on Tyneside is desirable, and should embrace both urban and rural territory. For such area a single central authority with power to administer all the “regional” services mentioned should be set up.

The area should comprise—

The Administrative County of Northumberland;  
The County Boroughs of Newcastle-upon-Tyne, Tynesmouth, Gateshead, and South Shields;  
The Boroughs of Wallsend and Jarrow;  
The Urban Districts of Gosforth, Newburn, Whitley and Monkseaton, Hebburn, and Felling;  
Portions of the Urban Districts of Whickham, Blaydon and Ryton.

The Regional Council should also take over all Tyneside ferries. The new Regional Authority should be styled the Northumberland Regional Council, and the existing administrative machinery of the Northumberland County Council should form the nucleus of it.

For the local (*i.e.*, minor) services, the whole of the Tyneside Districts (*i.e.*, all those mentioned above except the Administrative County of Northumberland) should be amalgamated to form one large unit to administer the services not allocated to the Regional Authority. The county boroughs would, of course, lose their status, and the new enlarged unit would rank as a municipal borough to be called the City of Newcastle-upon-Tyne.

There should be one authority, the Tyne Improvement Commission, in control of the River Tyne and its docks, etc., and a *prima facie* case has been made out for the establishment of a separate passenger transport board.

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### *Recommendations of the Minority Report*

One member of the Commission presented a Minority Report. He considers that the needs of Tyneside would best be met by the formation of one County Borough comprising all the Urban Authorities before referred to except the two sea-coast County Boroughs of Tynemouth and South Shields. He agrees that certain services require a regional control. He considers, however, that the new County Borough would provide an area sufficiently large for economy and efficient administration of the police, fire brigade, public assistance, and most of the grades of the education services. For services requiring larger areas he considers Joint Boards (with some statutory provision for amendment in the usual procedure adopted for them) to be a suitable machinery. He does not mention their defects, but strongly emphasises the flexibility they afford in creating an authority adapted to the optimum area of the particular service. He gives no definite list of the services which he considers suited to a wider regional control by this means, but appears to suggest that they might be found advisable for hospitals and sanatoria and similar institutions, the higher branches of education (including technical), and to some extent main sewerage.

### III.—THE GENERAL BEARING OF THE RECOMMENDATIONS

The appointment of the Royal Commission was prompted by the Report of the Commissioner who was appointed to investigate the industrial conditions on Tyneside as one of the areas where unemployment was abnormal; the Commissioner having stated in his report that "there is at any rate a strong *prima facie* case for some measure of unification of the local authorities on Tyneside, and that the prospects of voluntary amalgamation were so remote as to be outside the realm of practical politics."

The particular solution of the local government question put forward by the Royal Commission does not appear to be directly related to the industrial conditions which were the concern of the Special Commissioner.

It is possible, of course, that regionalisation in such matters as education and public health, etc., might have been envisaged as a means of relieving depressed urban communities on the Tyne by "spreading the charge." But the Commission on Government do not put forward a spreading of the charge as the main ground of their recommendations. They base their case for regionalisation on economy and efficiency of administration. Again, while we may concede that "in an area not much larger than the City of Birmingham where no less than sixteen local authorities are responsible for all or some of the local government services" it would

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be difficult to secure the achievement of purposes common to the urban and industrial aggregate, and urgent from the point of view of ameliorative action by local authorities in relation to unemployment, a local consolidation would have achieved this. "Consolidation of the Tyneside Authorities" were, in fact, the words the Special Commissioner used; and if the subsequent Commission had recommended one large County Borough it would have surprised no one and been no innovation.

The Tyneside conurbation can be paralleled in almost every part of urban England and Wales. On Merseyside the conditions are so similar as to present us with a replica of the area within the Commissioners' purview. It must not be thought however that coastal conurbations only are affected; since it is clear that the essential circumstances of Tyneside conurbation are fulfilled in the area of almost every large industrial centre in the country.

Since the Commission found a suitable "regional" unit in the geographical area of Northumberland plus the southern Tyneside fringe, and recommend the obliteration of county borough status within this area, do the recommendations really amount to no more than a re-assignment of functions to a somewhat enlarged County Council? In fact, they do. But the principles adopted by the Commission could not lead to such a solution elsewhere. In areas where the machinery of one County Council would *not* be a suitable nucleus for a regional organ, the Commission's principles could remain valid and involve much more drastic changes on lines left indefinite by the Commission—particularly in regard to the division between regional and local services—and to apply them on Tyneside in the manner suggested, but not elsewhere, would be a confession of defeat. For if it is true that "for economy and efficiency" regionalism is necessary to an extent which demolishes the county-borough type of government as well as the borough and urban district, then to refrain from doing so merely because in most other parts of the country a facile solution is not to be found in the choice of one county as the hinterland and one County Council as the nucleus of the new regional organ, would be to confess that we have left our local government structure to stand and rot like a condemned bridge.

### IV.—THE MAIN ISSUES: CRITICISM

The main issues which the Report seems to me to raise are these:—

- (1) Are all the services classed by the Commission as "regional" rightly to be regarded as such in the sense that they secure the maximum of efficiency and economy when administered

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on a regional basis transcending the areas of even the largest County Boroughs or County?

(2) Even in cases where the optimum area can be accepted as "regional," does this fact warrant the transfer from County Boroughs or County Councils in view of any drawbacks that may arise from such transfer on grounds other than that of area, or because of the effect upon the residue of services left to be administered by the smaller authority? As a corollary to this question, what similar effects or drawbacks may accrue when such services are taken from even the smaller municipal authorities?

(3) In cases where the weight of evidence establishes certain services as requiring regional administration, what form is the Regional Authority to take and what constitution is it to have?

The sphere in which regionalism has been most strongly advocated hitherto has been that of the Public Utility Services, viz.:—Electricity Supply, Water Supply, Road Passenger Transport, and to a less extent, Gas Supply. All these are services of an economic character in which the law of increasing return is especially potent. Had they existed under the municipal control of Tyneside, the Commission would probably have classified them as regional, but it is interesting to conjecture what form of organisation the Commission would have suggested for them, in view of the bearings of the recommendations upon other areas. On the principles of the Report, Cities and County Boroughs and Municipal Authorities elsewhere would lose their purely local government functions to a regional organ, and in addition might lose their trading services, as they are called—perhaps not to a similar body, but to the various types of larger unit which had been contemplated in other Reports, as for example the Report of the McGowan Committee.

The list of services classified by the Commissioners as "regional" are "local government services," and not "industrial" services, and that fact alone removes one very important factor which determines areas of operation or administration.

The law of increasing return is, on close analysis, many rooted; and I do not deny that, since even local government services involve the provision of institutions, etc., the assembly of properly specialised staff and the element of overhead charges, the law has some scope in the case of services which are not of an industrial character. In services of an industrial character, such as the utility services, it is, however, operative in a much higher degree, chiefly because of the extent of the fixed plant required.

Passing now to a review of the particular services classified as regional, I cannot see that any larger highway unit is required than the County or the County Borough, now that trunk roads have been

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taken over by the Ministry of Transport. The charge is now so spread that a further enlargement of area could affect it but slightly, and since local agencies for repair, etc., will always be required and are utilised now, I cannot see any economies accruing through a larger area on the operational side, and I think the supervisory unit in the shape of the County Council already has as big an area as it can manage.

Somewhat similar arguments apply to the Fire Brigade Service. Unquestionably some arrangement is needed whereby smaller urban authorities do not provide fully equipped brigades which have a very low degree of user. Arrangements are also needed for the more isolated areas. If a Fire Brigade is to be of any use at all its ambit is necessarily a restricted one involving a number of local centres, and while I think that some arrangement of the kind I mentioned is required, or possibly some central planning or planning by the County Council in that connection, I see no reasons for centralising the control over a wide region.

In the case of the Police, I see hardly any economies accruing from an area wider than the typical unit of to-day, provided the smaller borough forces are gradually eliminated as is already a settled policy. The Commission make great play with the mobility of the fugitive criminal and the need for a quick mass mobilisation of police over large areas. Nothing in the existing arrangements seems to me to preclude the necessary provision in these circumstances, and it seems to me that concentrated urban communities need their own forces. Crime of the widely fugitive type is the exception and not the rule, and the majority of police work is, in my view, more intensive than extensive.

To the remainder of the services, Health, Education and Public Assistance, I apply considerations which are substantially the same. Apart from the institutional side, as to which I will say a word later, they are all services in which the authorities deal with the personal element. While admitting that a greater degree of uniformity in standards is desirable (though adjusted to different environments), I consider the most appropriate medium for effecting this to be the prescriptions of Parliament and the Central Government Departments. Within the limit of these prescriptions, there is need for some flexibility, which is best effected under the influence of local feeling and responsibility and with the help of local knowledge of the local environment. In this field contact with those governed and an intimate knowledge of their conditions are of importance. There should also be close contact in most services between the administering officers and the elected council, or, as in the case of public assistance, with some sub-committee of the authority which

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has financial responsibility. Even if the rural were combined with the urban areas in a wide region, as the Commission propose, there is no doubt that the larger Authority would have to study very especially the needs of the urban aggregates, and it is better that the officials planning such needs should do so in co-operation with responsible local elements and not under a remote body which knows no particular part of its area intimately.

A further consideration which argues against any such change in the organisation of personal services is the fact that the organisation of our personal social services as a whole needs review which will extend to those nationally administered as well as those locally administered, and it may well be that a reorganisation of those at present conducted by local government would not conform to any well considered plan for co-ordinating all of them.

\* \* \*

A close perusal of the Report will reveal that there is practically no economic argument put forward by the Commission for classifying all these services as regional. They make a strong point when they argue that the rural areas should be better catered for, but there are alternative means of doing this, as I shall suggest.

We may turn now to consider the effects of stripping the County Boroughs of so many of their functions, bearing in mind that in other areas than Tyneside, where a convenient County could *not* be found as the regional unit, this might involve some depletion of the County Councils' functions also.

It seems to me that there are two facts of which the new-found enthusiasts for wholesale regionalism completely lose sight.

The first is that it is possible in many cases to secure the advantages of large-scale operation, including its effects upon economic use of institutional accommodation, etc., the assembly of efficient and specialised staffs, and cheaper establishment charges, equally well by an aggregation of services under one single authority controlling a large concentrated population as by dividing services among several bodies over large areas. That I think from the economic point of view is the great merit of County Borough government. The other fact of which they lose sight is that existing local government services, even including the public utilities, constitute what the economists call a "complex," and that the unified control, centralisation, and intensive working of a County Borough can secure a co-ordination of many varied services for the benefit of consumer or citizen in a way otherwise not possible. It is perhaps only putting the same fact with another facet to the light when I say that this aggregation of services also renders the staff of such an organism more flexible, more adaptable, and more appreciative of each other's needs and

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problems than the staff of any less complex organism. The officials learn something of each other's technique—not sufficient to enable them to trespass on each other's functions but sufficient for each to recognise the purpose shining through the other's technique and for each to be able to meet the other's needs with his own professional contribution. As Clerk, I have acquired a considerable smattering, through my own contact and consultations with other officers, of the work of about six or seven different professional types. That does not enable me to become a Gas Engineer or a Doctor or an Engineer or a Surveyor, but it does enable me to understand a technical matter to the extent of being able to advise such officers on the law or the broad administrative considerations which govern their problems. I do not forget of course that under the recommendations of the Commission the proposed regional authority would have a fairly extensive complex of functions itself, but as the advantages in the wider areas seem to be so questionable in the case of the services mentioned it seems to me that the solid and well-proven advantages of an organ such as the County Borough with a wide complex of functions would, under their recommendations, be sacrificed to the very questionable advantages of a wider area. Even if these advantages were real they would not compensate for the breaking up of the County Borough complex.

To a less extent, and not in every case, similar considerations apply to the smaller municipal authorities, including of course the large Urban Districts.

In clinging to the County, Borough, and Urban District as types of authority which should be retained with a wide range of functions, differentiated according to size, I do not forget that something must be done to carry facilities to the rural areas, and to mitigate the very uneconomic provision which has been made by smaller urban authorities on the institutional side. I also admit that in services like water and electricity there is a strong case for regional organisation which transcends the limits of the County Borough in some cases and of the Urban District in perhaps the majority of cases.

What I say must not be taken as meaning that we do not need in many parts of the country a consolidation of urban authorities, but this is something which can be achieved within existing framework, and does not amount to regionalism.

Dealing now with the question of the form of regional organ, I think it would be useful to summarise the disadvantages which have been seen in *ad hoc* Joint Boards, indirectly elected:—

- (1) As appointments to the Board are made by constituent Councils, party majorities in the Councils determine the choice, and there is thus an intensification of the political element in the

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constitution of the Boards which might, in some areas, result in a complete distortion of their representative features;

(2) As the Joint Board is indirectly elected, it does not come under popular notice and criticism to the same extent as directly elected Town Councils;

(3) The contacts with consumers are less close; and public control not so effective as in the case of the directly elected Council;

(4) While nominal control is exercised by the public representatives, the removal from popular contacts working through close survey by public representatives, tends to make the officers of such Boards less responsive to public feeling and more removed from public criticism, with the result, it is claimed, that such Boards will be, and in existing instances have shown themselves to be, rather bureaucratic in their working; and

(5) A policy of developing services on this basis leads to the multiplication of dissociated bodies, whereas the ideal is a close mechanism of associated services.

It is, of course, possible to constitute *ad hoc* Boards by direct election, but such a course may be worse not better, since elections for *ad hoc* purposes evoke little, if any, public interest, chiefly for psychological reasons, and would therefore lead to a less effective public control than even the scrutiny of constituent councils. There is support for this view in our experience of the system of Boards of Guardians abolished in 1929.

### V.—SUGGESTIONS FOR AN ALTERNATIVE PLAN

I should not like to conclude without offering some suggestions for an alternative course, although as this paper has already gone to some length and is being prepared in circumstances of haste, I can only offer a thumbnail sketch of my ideas, and am precluded from supporting them with detailed argument.

I summarise my suggestions under numbered paragraphs:—

(1) The best solution for Tyneside is an enlarged County Borough.

(2) The contention of the Commission that, for reasons of economy and efficiency, the non-utility services they specify are best administered in regional areas of wider scope than either County or County Borough boundaries, embracing large tracts of rural as well as urban territory, is, to say the least, very questionable. If, in any case, the optimum area in such a service would be one of regional scope (if the service be considered in itself) it is nevertheless a fact that the same kind of economies as those conferred by the wider area can be

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secured by an aggregation of services in one autonomous area of County Borough type. The latter course makes for greater efficiency, since it secures better contacts, better co-ordination of services and a highly differentiated though well-co-ordinated staff of great elasticity and resource and common understanding of purpose over a large field. The grouping of adjoining urban areas to form large County Boroughs is not therefore a policy to be discarded but one to be continued.

(3) Since the range of functions of even smaller municipal authorities such as boroughs and the larger urban districts is, or can be made, fairly extensive, the advantages attached to the County Borough complex apply, to a less but appreciable extent, to them also. Where a number of such urban entities may now be contiguous, the best line of development will be the creation of an enlarged County Borough. Where such urban entities are more self-centred or isolated, they should not be obliterated in a policy of transferring the more important services to some wider body. They cannot, of course, be given the same scope or autonomy as the County Borough. In education and police it would be wise to continue the policy already settled upon, under which, outside the County Boroughs, the County Council should everywhere be the authority.

(4) We shall always need an intermediate authority like the County Council for services for which the lesser urban units are too small, and for the provision of the major services in the rural areas.

(5) A greater elasticity should be developed for administration outside County Boroughs, and the County Council, in addition to its direct administrative control, should be something of a planning medium, with central help and under central control, for the County Areas. Through its control of electoral arrangements and by reason of its duties in boundary review, the County Council is already well equipped for such work, and the Ministry seem recently to have tended to advise legislation under which the County Council plans, in the first instance, the co-ordination of services in the minor areas and the selection of the authority to provide the services in its own and other areas. The possibilities of this policy have not yet been fully appreciated. It is comparatively in its infancy and it should be extended.

(6) In the carrying out of this County-planning function, every legitimate opportunity should be taken, where there is a self-centred borough or urban district of good size possessing

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already a fairly wide group of functions, to add to these functions in any new case where it is not at once obvious that the service calls for a wide area such as the region or the county. In addition, the County should plan to give such urban units power, and in some cases the duty, to cater for adjoining or surrounding rural territory. On the other hand, it should be the endeavour in such planning to restrain urban authorities of very small size from providing onerous services such as Fire Brigades, or Medical Services involving institutions and clinics, for their own area alone. In the same way, where boroughs or urban districts are close neighbours, but there is no case for absorption of one by the other, or the total area is not large enough for a County Borough, such planning should provide that one or other of the authorities should provide service for the whole area. It is not necessary in all such cases to provide a Joint Board, as very often the terms under which one authority can serve the other can be so standardised that a Scheme of the County Council, approved by the Ministry, would provide every necessary safeguard.

(7) Where, as in the utility sphere, there is a strong case for a large regional area, I consider the best organ to be an *ad hoc* body. This plan involves a separate control of the services concerned, but the cases are not very numerous, and here it is especially important that each service should have exactly the right area. Here also, size may be a dominant economic factor. I do not favour the indirectly elected joint board as an organ in such cases, and such a constitution may sometimes be impracticable owing to the existence of privately owned units. I prefer to see a constitution which follows, though not slavishly, the new model exemplified in the London Passenger Transport Board.

The essential features of the plan for London passenger transport were as follows:—

- (a) The policy is specified in something like the terms of a trust, by Act, Order, or Scheme;
- (b) a qualified Board is appointed to administer and manage that Trust;
- (c) the controlling body is not one of lay representatives of the interests involved, but the interests involved are part of the machinery of choice of the qualified members of the directing Board.

The plan could be supplemented by providing appellate tribunals on such matters as tariffs, etc., and by creating

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Consumers' Advisory Councils to maintain contacts between the directorate and the citizen consumers.

It may be possible later, when regionalism has developed on these lines in an appropriate sphere, to bring *ad hoc* organs together for co-ordination of the several services, and in the meantime there seems nothing to prevent the adoption or adaptation of the device of interlocking membership of such Boards with this end in view.

Such a policy does not mean, as has sometimes been contended, an abandonment of democracy or loss of effective public control. Organs of this kind would be an emanation from central democratic authority. We must learn to distinguish between democratic principle and democratic form; and to observe the democratic principle in this country we may well have to abandon nineteenth-century forms.

# The Co-ordination of Means Tests

By P. FORD, Ph.D., B.Sc.

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THE prominence given to the principles and details of the Means Test used in the grant of unemployment assistance contrasts sharply with the comparative neglect of the tests used by the local authorities in the administration of the social services under their control. They are both numerous and very diverse in type. They were established as the result of different Acts, and may be administered by different committees. For several reasons they need scrutiny. First, it is possible for a family to be receiving assistance from more than one source, under different methods of assessment of its means. Secondly, they imply different views of family obligation, and different schools of experts on public assistance have emphasised the importance of this. Mrs. Bosanquet in "The Family" argued that one of the most important characteristics of the family was that its members, by pooling their income, formed a unit of mutual support, in fact that it was "a mutual benefit society with extended functions." Further, it was the best institution for inducing one generation to provide for another. It followed that State policy should do all that it could to maintain and insist upon these vital relationships and incentives, and a test of family means when the State gives assistance is a logical consequence. On the other hand, the minority of the Royal Commission on the Poor Law of 1909 argued that this plea should not be used to refuse help and essential services to needy families; they wished to separate the grant of the service from payment for it, and suggested charge and recovery by an independent officer. Quite apart from the importance of avoiding overlapping, therefore, it is desirable that the State should be working on clear principles as to the nature of the mutual obligations it wishes to impose on the members of the families it assists, and on the claims for dependants it will recognise. It is the purpose of this article to examine some of these tests from this point of view, to discuss the principles on which they are based, and the relationship between them.

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Tests may be used (1) in Public Assistance; in the school medical service, in the provision of (2) milk and meals, (3) medical and dental treatment, (4) convalescent home treatment, (5) spectacles, and the treatment of tonsils and adenoids; in connection with the maternity and child welfare services, in the provision of (6) free or assisted milk, (7) convalescent home treatment, (8) fees to midwives, (9) treatment in hospital, (10) medical assistance called in by midwives, (11) lying-in homes, (12) home helps, (13) medical treatment of pre-school children. In addition, they are also used in connection with (14) tuberculosis sanatoria and homes, (15) municipal general hospitals, (16) rheumatic and orthopædic clinics, and (17) the maintenance of mental defectives in homes. Occasionally, (18) in the use of the ambulance and in connection with infectious diseases.

The services in respect of which tests are made are of two kinds. The aim of some of them is to maintain the recipient and his family at a minimum general standard of living, as with public assistance or payments to the blind, while others provide some specific service or relieve the family of some detailed item of expense, such as free meals or milk, free or cheap medical treatment, etc. Families below the level may receive substantial amounts, while those much above it may receive nothing. In comparable cases the incomes of the recipient families are thus equalised within a narrow range. The second type, on the other hand, is used when the State endeavours to provide that insufficiency of income should not prevent the enjoyment of some particular service, and in some cases the help may be granted to families who are regularly in receipt of incomes more than adequate to meet any general minimum standard, and even to those receiving what may be termed "lower middle class" incomes. The general scheme of distribution of income between the recipient families is unaltered, save for the whole or part of the value of the particular service rendered.

In devising such tests three points have to be settled; (1) the unit of assessment of needs and means, *i.e.*, whether the basis is to be the circumstances of the individual, the parents or the household; (2) the actual amounts of personal or family income above which aid will not be given, and the actual rate of assistance granted; (3) the machinery of assessment and of collection of any contribution from the recipients or others towards the cost of the service rendered. In these matters there are great differences between local authorities and between the separate services of the individual authorities. A simple questionnaire was issued to all county boroughs, and although the returns are not complete, nor in the nature of the case easy to classify, they give a clear indication of the main varieties of practice.

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(1) *The Unit of Assessment.*—In certain services some authorities use no definite scale but deal with each case on its merits, either because the area is small and the number of applications correspondingly few, or because this method is regarded as the right principle on which to work. With these exceptions, three main units of assessments are used—the income of the parents only, the income of the household, and an intermediate type of “family” test which limits the liability to the parents and their earning children and other close relations. The family as defined in this third type varies considerably, so that it sometimes approaches “parents only,” at others is more comprehensive and draws nearer to the “household” type. In the case of meals and milk for school children, out of forty-nine authorities thirty-six used a household test, six had no scales at all, five used the family as the basis of assessment, and two took account only of parent's income. In the issue of free or low-priced milk under the Maternity and Child Welfare Acts, out of fifty-four authorities, five had no scale, thirty-nine used a household test, while four used the family, and six the parent's income basis. In the case of medical assistance called in by midwives, ten authorities use the household as a basis, and seven the “family.” Even in the award of “special places” in secondary schools, where one would expect the liability for younger children to fall on parents only, eleven out of fifty-nine use a household test, thirty-eight a “parents only,” and six a family test. The remainder are not classifiable.

(2) *The Relation of Income and the Amount of Assistance.*—Granted the basis of assessment, scales may vary in the way they grade the amount of assistance as the income of the applicant families increases, and in the level at which they refuse to provide services at less than cost. It is not easy to set the great variety of scales and allowances into order, but seven distinct types are actually in operation. (1) The whole income of the group is aggregated, and the assistance is granted to families with not more than a given average income per head, *e.g.*, 6s. per head, 8s. per head. Twelve of the 49 school meals scales and 11 of the 54 Maternity and Child Welfare scales are of this type. (2) In a few scales the principle is modified by making the average income per head uniform up to a certain size of family, and uniform per head at a reduced amount per head for families above that size. Examples:—(a) When the family consists of four or five persons or less, the income of the family must be 6s. or less per head. Where the family consists of six persons or more, the income must be 5s. or less per head. Income means income after deduction of rent. (b) The limit is 6s. 6d. per head for a family of five, and 7s. per head for a family of four or under, in both cases after the deduction of rent. (3) The most frequent type is also built on this model, but the maximum income per head is reduced by

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steps as the family increases in size. One of the reasons for the graduations in types (2) and (3) is that there are economies in the "common table" which become significant in the larger families; and no doubt the practice is partly a carry over from Public Assistance scales which usually taper the payments so that relief cannot exceed what could be earned in wages. Fifteen of the school meals and nineteen of the maternity milk scales are of this type. Examples:—(a) The income per head, after deduction of rent, for a family of two persons must not exceed 6s. 9d. It falls by 3d. per head for each additional person. The basis of assessment is parents' income only. (b) For two persons the limit is 15s. 6d., for three persons 13s., for four persons 11s., for five 10s. The whole household is assessed. (4) There are a considerable number of scales, especially in the Maternity and Child Welfare Service, where the steps of income are not regular, but appear to be purely arbitrary. Examples:—(a) The maximum income is 18s. for two persons, and the increments of income for successive additional persons is 3s. 9d., 3s., 2s. 6d., 1s. 6d., 3s. 3d., 5s. 3d., etc. (b) The income limits are 19s. 6d. for two persons, with additions of 4s., 3s. 4d., 4s. 5d., 3s. 9d., etc., for successive persons added. (c) For families of one to four persons, the maximum income is 38s. per week, of five persons 42s. per week, of six to nine persons 52s. 6d. per week. It will be seen that these four types of scale have a common feature, that they divide the total income by the total number of persons in the family, whether they are adults or children. For speed and simplicity of calculation they have much to commend them, but they operate unequally as between families of equal income, but containing different proportions of children of the more and less expensive ages. (5) There are a few cases where the maximum permitted income per head is uniform for adults, and uniform at a smaller rate per head for children; for example, the limit of income is 8s. per head for persons over, and 5s. 6d. per head for persons under 14 years of age.

These types contrast with (6) scales which, on the model of public assistance outdoor relief scales, are complicated endeavours to fit the assistance given to the needs and means of families of varied composition and earning strength. There are scale allowances for father, mother and children. Sometimes the scale allowance for children is uniform, as in unemployment insurance benefit, in others it is varied with their age. In addition, account may be taken of the income of supplementary earners on the one side, and of various standing expenses such as rent on the other. Examples:—(a) The income limits are, man and wife, 26s., each child under 16 years 3s., males 16 to 17 years 6s., females 16 to 17 years 5s., males 17 to 18 years 9s., females 17 to 18 years 7s. 6d. The income is gross income irrespective of rent. (b) The income limits are, for parents

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and one child 22s. 6d. plus 3s. 11d. for extra children, and 7s. 6d. for adults. Rent and insurances are deducted from income before calculations are made. Finally (7) there are odd cases of services being rendered free of charge to parents whose incomes are below a certain limit, and of full charge being made to those with incomes above the limit. It should be observed that these variations of scale type cut across the differences in the unit of assessment used. With the exception of type 6, which naturally presumes a household or family assessment, they are used in connection with parents, family and household assessment. Even the scales for special places in secondary schools, which were drawn up in conditions likely to their being carefully scrutinised, show similar features, except that the term "the number in the family," used as the divisor to obtain the average income per head, usually bears its colloquial meaning, *i.e.*, the number of children. Of the fifty-nine such scales examined, two were of type 1, twenty of type 2, fifteen of type 3, and two of type 4.

The purposes of the Means Test is to adjust income and needs, and in the major ones, where there is an endeavour to relate these two as closely as possible, the character of the effective scale depends partly on the special allowances made for ensuring that standing charges shall be met, and on the exemptions of various portions of income from assessment as not available for meeting normal collective needs. There are three items with which such provisions are specially concerned. First, rent and rates vary greatly as between families with otherwise similar needs, and the major scales provide for this as a special expense to be met in addition to allowances for personal needs. Secondly, fractions of sums received as National Health Insurance benefits, Workmen's Compensations, Disability Pensions, or from any trade union or friendly society sick pay, are not taken into consideration when the amount of the available income is ascertained. Thirdly, where the income of supplementary earners is reckoned in, it is usual to exempt part of their earnings from assessment on the grounds that certain amounts are needed for personal expenses and for providing for the future. In this matter also the minor scales under review show wide differences. Of the fifty-four Maternity and Child Welfare milk scales, fourteen make no special allowances for rent nor exempt any of the types of income named. There are forty-three scales on a household or family basis, but only one exempts any fraction of other earners' income, or income from special sources. Similarly, of the forty-five school-meal and milk scales, ten make no provision for rent and rates, only five exempt the special sources of income, and although there are forty-one scales on the family or household basis, only six exempt part of the income of supplementary earners from assessment. Of the fifty-nine "special places" scales forty-one make no allowance

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for rent. The scales respecting medical and dental treatment, the provision of spectacles, the use of maternity homes, medical assistance called in by midwives, show similar variations of practice.

It will be seen that many of the scales are open to objection in detail. First, the "steps" of income according to which the amount of assistance granted varies, are in many scales both arbitrary and illogical. It has been the consistent endeavour of income tax authorities to diminish the arbitrariness in the amounts of tax demanded as a result of such steps in income tax rates. A similar tidying up in this less important field of Means Test is desirable.<sup>1</sup> Nutrition studies have made it abundantly plain that there should be a differentiation in the allowances made in respect of older and younger children. Scales of the first four types, which grade assistance according to the average income of all persons, irrespective of age or sex, are therefore inadequate. Many scales of all types have failed to make provision for unavoidable differences of rent. Numbers of them on the family or household basis allow of no reservation of income by supplementary earners. And the exemptions that are made are of a bewildering variety. Some ignore the first 10s., some one-third or one-half of the income of the other earners, while yet others treat them as lodgers and take account only of the "profit" on them. While an elaborate investigation outside the scope of this inquiry would be needed in order to determine the matter, it does not appear that the variety of basic figures in the scales really correspond to differences of wage levels between localities. Some of these omissions can be defended on the grounds that in some towns both the total number dealt with, and the full cost of a service, *e.g.*, the supply of milk to nursing mothers, may be small. In addition, where the service is directed towards young children, many of the assisted families are likely to be of the simple type of parents and dependent children only. To insist on an elaborate scale would be setting a steam-hammer to crack a nut. This is true, but in some ways it over simplifies the problem, at least for the larger authorities, for families may and do get assistance from more than one of the local authority's services. What has to be regarded is not simply the assessment of needs and means in respect of one item of assistance, but of all those which are being enjoyed. There are financial reasons for preventing overlapping, but it is no less important that the public and the beneficiaries of these services should be presented with a more coherent picture of what the State regards as the mutual obligations of the members of a family. At present it is a very confused one. Sometimes adult dependants are recognised in the grant

<sup>1</sup> See *Edgeworth, Collected Papers*, Vol. II, pp. 260-270. Royal Commission on Income Tax, Report, pp. 25-36; App. III and graphs.

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of assistance, at others, no account is taken of dependants at all. Sometimes part of the earnings of an older child are taken into account and at others they may be completely ignored. Indeed, this aspect of the services provides plenty of matter for a sermon on the Benthamite text, " Always do the same thing in the same way, and call the same thing by the same name."

A few authorities have endeavoured to co-ordinate the methods of assessment for the different services. In one authority the Public Health and Public Assistance Departments have drawn up scales jointly, in another Poor Law Scales are used as a basis throughout the services. Others use the same scale for several but not all of their services. One health authority, using a household assessment, has a series of eleven parallel scales for various sizes of family, and amounts of family income, commencing, for example, with 24s. for man and wife only as the lowest, and rising by 4s. steps to the highest for the same persons at 64s. These scales apply to eight services of the department and to the clinic cases of the Education Department. Those with income below the first scale get the service free, and the amount charged increases by regular amounts as the family income rises from scale to scale. These, however, are the exception rather than the rule, and on the whole no general policy appears to guide the individual authorities in devising their separate scales. They have been drawn up at different dates and under different circumstances of financial ease and public mood. Thus, for (1) school meals, (2) spectacles, tonsils and adenoids, and (3) assisted milk under Maternity and Child Welfare Schemes, one authority uses scales of type II, I, and IV respectively; another, types V, I and V, and a third no scale (merit only), type V and III.

The need for the co-ordination and clarification of these means tests is apparent. The Poor Law Commission of 1909 recommended the appointment in each area of a Registrar, who was to be the assessing officer for all the assistance given. The Committee of 1918 on the Transfer of Functions made much play with the facts regarding the number of authorities who might be giving assistance to the same family. The subsequent legislation, though placing many services under one authority, left them under different committees of that authority, and in the matter of assessment and recovery there is still much overlapping. Various suggestions have been made. One is that all statements of income and need should be filed with a central registry, set up by each local authority; to it should be submitted all the facts necessary to enable it to know all the forms of assistance given to any one case. It should assess the recipient in respect of all the services rendered or assistance granted. Some authorities feel that the initial expenditure and increase of staff

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necessary to start such a scheme is a fatal objection, though the cost of running it once established might not be serious. But, like the re-cataloguing of a large library on a new system, it is not only expense which may act as a deterrent to the introduction of desirable changes, but the natural reluctance to undertake so large a task alongside of current commitments. Considerations of departmental prestige may also play some part. In both cases such work needs careful organisation if it is not to be distracting and expensive. An alternative suggestion is to make the public assistance department and its officers the instruments of co-ordination. Each department could report to the public assistance officer, and the relieving officers could investigate on means and act as collectors of any sums due. This scheme also is not free from its defects. It reintroduces the officers of the poor law into services which were deliberately set up in such a way which would free them from the poor law and its limitations. In some areas this difficulty may not be serious, but in others the state of public opinion is such that it would work to the disadvantage of a new service.

Improvements in the scales themselves should also be sought. The situation as to the unit of assessment should be cleared up. Co-ordination need not mean a uniform test for every type of service. It would be right to use the parents' income test for one type of service and household or family tests for others, but there can be no case for having some authorities using a parents and others a household test in one and the same service. Further, it has been shown elsewhere that the actual group of persons drawn into the household is the consequence not merely of the natural grouping of family custom, but of the movements of economic life in their effect on the demand for and supply of labour, of the housing policy of the State, etc. It is difficult to regard the "household" as the stable unit of obligation which Poor Law administration has often assumed it to be.<sup>2</sup> The matter is not one of simply preventing the financial losses due to overlapping. There is no need to be deterred by suggestions that more uniformity and clarification would involve undue interference with local discretion. A distinction should be drawn between the determination of the basic figures of any scale, which must obviously be related to the economic characteristics of each area, and the principles of family obligation on which the scales are based. If, as seems likely, we are to look forward to a still further development of the social services, the question of what we are to regard as the unit of mutual dependence will become more and not less important. And if the State requires consistency from those who receive its benefits, it should make some endeavour to put its own house in order and grant its services on clear principles.

<sup>2</sup> *Sociological Review*, April, 1937, pp. 180-1.

# Some Implications of the Statutory Corporation

By Professor F. A. BLAND, M.A., LL.B.

[*Address to the New South Wales Regional Group, 3rd September, 1936]*

ALTHOUGH Australian Governments, for two generations, have resorted to the Statutory Corporation as a means of administering public utilities and State-owned "business" undertakings, comparatively little attention has been given to the implications of that policy, and still less to an appraisal of the relative merits of the several types of corporations which have been constituted. Government corporations present a bewildering variety of forms, and these contrast sharply with the board of directors-general manager type almost universally adopted by private enterprise. "Expert" boards jostle "representative" bodies. Ministers of the Crown sit with expert or lay commissioners, and frequently have, as "Ministers," to pass judgment upon their actions as "Commissioners." Banking, health, transport, wage regulation, harbours, public service personnel, to mention only a few of the corporately controlled services, are administered by commissions differently constituted in different States, and the Commonwealth corporations frequently differ from those of the States. Is any type superior? And what are the tests of superiority? If, however, such superiority could be established, it would hardly be desirable to make that type general, for different services demand different systems of administration. For example, a public utility service, such as Water Supply, may offer scope to the elective principle, although that principle would have no place in a Commission controlling banking or broadcasting. Again, public health may best provide for a representation of interests, while the control of public service personnel is a matter for experts.

It would be wrong, however, to suggest that the principles governing the constitution of the several types have been clearly formulated or consistently applied. In his "British Public Utilities," Professor M. E. Dimock expresses similar views with regard to British corporations.

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"The growth of British public service undertakings has been characterised by opportunism and experimentation. That is to be expected, because the traditional British method is to settle problems as they arise, rather than to devise a logical plan of economic organisation in advance. . . . A policy of empiricism can easily become one of drift. . . . The average Member of Parliament would be shocked to be told that the basic principles of every new public service undertaking were not carefully considered. . . . The Post Office may operate very successfully as a Department of State, local transport may do very well under the statutory company form of organisation, the B.B.C. may possibly be ideally administered as a public utility trust, but not one of these methods of organisation and control is necessarily a standard for all future development. It is quite possible that when the theory and possibilities of the mixed undertaking are better understood, there may be as pronounced an expansion in that direction as has occurred on the Continent."

Although the public ownership and operation of "key" services is part of the gradualist Socialist programme for the nationalisation of the means of production, distribution and exchange, anti-Socialist governments in Australia have been responsible for creating many of the existing statutory corporations. There are still, however, some people who question "whether" the State ought to engage in business operations, because, in their opinion, the conditions essential for their successful management are lacking. The Hon. F. W. Eggleston expounds this view in his "State Socialism in Victoria."

"During my occupancy of several Ministerial posts in Victorian Governments from 1924 to 1927," he says, "I was converted from a strong advocate of public ownership and operation of all common services to the view that under present circumstances, the conditions for the successful public operation of many of these services do not exist in Victoria. . . . From the personal point of view, the experience was one of only partially successful resistance to intense political pressure from interested sections of the community, with practically no support from any political section or from the public. The lack of public support was due to ignorance, not only of the principles which should guide public administration, but also of the technical problems. Nobody was interested but the 'Interests.'"

In view, however, of the pressure of Socialist opinion, on the one hand, and of the advocates of a planned economy, on the other, I suggest that little will be gained by discussing whether or not the State ought to own and operate such undertakings as banking, transport, broadcasting, electric light and power plants. The question upon which we should concentrate is "how" these undertakings can be

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best administered. To some the State is a magic agency, and so sublime is their faith in its power, that to hand an undertaking over to the State to manage is to regard its success as assured. Past experience has no lessons! An even larger number of people tend to forget that the State is not something abstract, but is dependent upon average human agents for its working. Where they would indignantly repudiate any suggestion that human beings are omnicompetent or infallible, such people naively imply that governments possess or can acquire those qualities.

In a striking passage in his "English Political Theory," Ivor Brown reminds us (p. 142) that "The State after all, is an institution equipped with governmental machinery: such an institution is liable to capture by interested parties. A Marxian would argue, for instance, that the State has always been so captured, and that it has been simply the executive organ of the economically powerful class. Whether the question is capable of so simple an answer is, for the moment, irrelevant. What matters is the acknowledgment that the machinery of government can be captured and turned to perverted ends. Therefore, the more we idealise the State, the more we concede a State-sovereignty unchecked by individual rights, the more easily do we hand ourselves bound hand and foot to a pretentious and hypocritical usurper, whose every tyranny will be justified, on the ground that he is forcing us to be free, and that, as the State authority, he can tell us our own real good."

Not only is the government not omnicompetent, but it is peculiarly subject to special influences which may wreck the whole system of Parliamentary government. This danger is discussed by the Rt. Hon. Herbert Morrison, a former Minister of Transport in Great Britain, in his "Socialisation and Transport."

"It is necessary that the management (of national undertakings) should be sufficiently free from those undesirable pressures associated with both public and private parliamentary strategy, political lobbying, and electoral "blackmail." Subject to whatever Ministerial or other checks or appeals may be provided in the public interest, the management must be a responsible management and must be able to stand its ground in the interests of the undertaking which is committed to its charge. If the iron and steel manufacturers want an uneconomic freight for the transport of iron and steel, it would be disastrous for them to be able to frighten the management with the prospect of Parliamentary pressure from other powerful industries, sections of the travelling public, or from the large body of people employed by the transport undertaking. It is better that avenues should be provided for the settlement of these conflicts outside politics. . . . These

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considerations should lead the Socialist, no less than the anti-Socialist, to ask himself whether State departmental management, with direct ministerial responsibility, is the appropriate form of management for such business or commercial undertakings as transport, iron and steel, electricity, etc. And the Socialist must remember that he contemplates the socialisation of all the great industries and services, and that his policy of to-day must take account of the vast implications of the wide extension of that policy to-morrow. . . .

" If Ministers and Parliament were to be responsible for the management of all these industries, we should have to contemplate a few consequential problems. If a Minister were to be at the head of each socialised industry, fully accountable for its affairs, we should require a greater number of Ministers than is healthy for the proper functioning of Parliament, where the large bulk of the members should not have too direct a personal or material interest in the Government itself. Even so, although the Minister would, in the constitutional sense, be responsible for everything that happened in the industry, he could not in fact really manage the industry, even if he were personally qualified to do so. In most cases he would not be so qualified, any more than the predominantly commercial man is often a success in politics. This would be still more the case if a series of industries were grouped under one Minister in order to reduce the number of Ministers required. In that case, Ministerial control and Parliamentary supervision would become more unreal. . . .

" Direct Ministerial and Parliamentary responsibility would open the possibility of Parliamentary candidates at a general election, and perhaps even more dangerously at by-elections, being pressed energetically by various interests for concessions. Large elements of the electorate would have a personal interest in prices and charges: they would be tempted to squeeze, and the competing candidates tempted to promise. The bulk of the electorate would be drawn from families directly concerned with conditions of employment in the publicly owned undertakings. In a number of constituencies, for example, iron and steel, mining, cotton and shipbuilding, the workers of particular industries would dominate the electoral situation. There would be a great temptation on the part of competing candidates to make irresponsible promises of support for better and better labour conditions. In framing their programmes, the political parties would have to take these conditions into account in wording the electoral appeal aiming at the securing of votes." (Rt. Hon. Herbert Morrison, in "Socialisation and Transport," 1933, pp. 173 *et seq.*)

Despite his excellent analysis, I do not think that Mr. Morrison satisfactorily resolves the dilemma which he poses. As against a

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“responsible management” he sets “ministerial or other checks in the public interest,” and he confesses that “although the Minister would, in the constitutional sense be responsible for everything that happened in the industry, he could not, in fact, really manage the industry . . . in most cases he would not be so qualified.” Are we not left with a “responsible management” subject to a “minister constitutionally responsible for everything,” thus providing every likelihood for clash? The London Passenger Transport Board, which Mr. Morrison did so much to establish, illustrates the constant conflict between politics and administration. As he points out, political blackmail assumes many forms, but I suggest that the most sinister fashion in which it can operate is through a Commission which the public believes to be independent of political control.

The fact is that the Statutory government corporation is out of harmony, if not quite inconsistent, with the old theory of parliamentary government and of ministerial responsibility. That theory asserted that the Government might be called to account for everything that happened. But ought it to be called to account for the acts of a Corporation which Parliament has created with a “responsible management”? And if the Government cannot be called to account for the actions of the Corporation, how is the Corporation itself to be kept in harmony with public opinion? This is the dilemma in which the statutory corporation places us. Mr. Morrison, and those who think like him, wish to have the best of two systems—an independent corporation with a “responsible management,” and a “popular representative” (a Minister) exerting control over the independent board to harmonise its actions with public opinion, because the Minister is “constitutionally responsible for everything.” Is such a position fair to anyone?

In pursuing a policy of creating “statutory corporations” political parties do not believe in their hearts what they say in Acts of Parliament, and, in consequence, ministers and boards of commissioners do not know what to practise in their administrative lives. Since we seem committed to this policy, we shall have to invent a technique for reconciling the management of public undertakings with a theory of popular control. I propose, therefore, to pose a series of provocative questions which I want you to discuss. They cannot be disposed of by a glib “yes” or “no,” but since many of you are administratively engaged in the service of one or other of the existing statutory corporations, you will have at some time to find an answer.

The questions are:—

- (1) Do our objects in creating Statutory Corporations (to manage

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national undertakings) imply that government can be efficient only if it ceases to be popular?

- (2) Do our methods of creating Statutory Corporations imply the existence of inconsistent political ideas?
- (3) Is the existing system of creating Statutory Corporations a means of deluding the people?
- (4) Is it possible or desirable to create Statutory Corporations which are autonomous?

(1) Our political philosophy will, of course, influence our objective, but whatever our philosophy, we must, as a preliminary, attempt to answer the question "how" the objective is to be achieved. Generally this provokes impatience, for to suggest that investigation in political experiments is just as essential as in the realm of applied science is to stamp one as an obstructionist.<sup>1</sup> The objective of the Socialist is to restrict the domain of private enterprise by expanding the activities of the State, but that brings us face to face with the difficulties raised by Brown and Morrison. The objective of the average man is undefined. He has no settled view of the functions of the State, and is prepared to deal with each situation on its merits. At the same time, faith in State action is traditional in Australia. For this our origins are responsible, for reliance upon the State during the first seventy years of our history irrevocably influenced our subsequent political outlook.

In recent years, however, there has been a tendency to insist that if the State is to engage in business, it ought at least to be business-like and efficient.

In "Where stands socialism to-day," Mr. A. L. Rouse, an English socialist, says that "the first principle we should keep in mind is that whatever organisation we attempt has got to be efficient. The efficiency principle has got to come first. One may object to the Socialist principle coming second, though I think they are not really in contradiction with one another; for if industry under Socialism is not efficient, there will be in the long run no industry to socialize."<sup>2</sup>

For the conventional activities of government, some progress has been made towards eliminating the inefficiency resulting from political patronage and nepotism by the creation of Statutory Corporations to control personnel. But the machinery of popular government has been designed for other ends than efficiency. If efficiency

<sup>1</sup> Many politicians, whose confidence is more conspicuous than their capacity to appreciate difficulties, scout the idea that tariff matters can better be handled by a Tariff Board than by Parliament, or that a Development and Migration Board is essential for dealing with problems of national development, or an Unemployment Board with matters of re-employment.

<sup>2</sup> The recent report from Russia regarding the partitioning of the huge State farms because of their inefficiency emphasises the distinction between an objective, and the manner in which that objective is to be reached.

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is secured, it is a by-product rather than the primary intention. It is the attempt to apply this system to the management of State business undertakings which creates our problem. When both Ministers and citizens have been accustomed to officials concerned with conventional matters of government being given orders to carry out government commands, they find it difficult to appreciate the impropriety of such orders when directed to members of Statutory Corporations, whose charter of incorporation is designed to give them a degree of administrative independence.

The need for political education of electors and representatives is obvious. If the principle of the Statutory Corporation is to be accepted, then we shall have to discriminate quite sharply the separate functions of politics and administration. That is to say, if the objects sought by the creation of Statutory Corporations include efficient management, continuity of policy, and responsibility for results, we shall have to consider whether these things are compatible with a system based upon political control.

(2) The validity of the antithesis between efficiency and popular control has yet to be examined.

Are these things measurable? What values do we attach to efficiency and popular control, respectively? And when we try to measure results, can we be sure that we are evaluating comparable things? For example, by what criteria would you measure the results attained by the 1928-30 City Commission for the City of Sydney, as compared with those attained by the restored City Council in 1931-35? Or again, two departments may be similarly organised, and yet the results of their working might be entirely different, because of the varying personalities of the respective Under-Secretaries and Ministers. Measured in terms of calibre of staff, quality and quantity of work, the post-Public Service Board government office is demonstrably more efficient than that of the earlier type. But it would be a mistake to measure efficiency solely in terms of balance sheets. Service rendered rather than the profits it makes may be more important in determining the efficiency of the Post Office. At the same time, it is sheer blindness to say that service can be rendered irrespective of cost. This is, as Henry Clay has pointed out in the *Political Quarterly* for January, 1931, an age of economic responsibility, in which "there may be said to be a recognised right to income independently of any service, merely by virtue of membership of a community that can afford to recognise such a right." There are far too many who regard the government not as an instrument for organising the social energies of the people, but as an indefatigable manufacturer of rights; too many who scout any suggestion that the enjoyment of rights is intimately associated with effort, discipline,

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training, tolerance, and patience. And on the other hand, there are far too few who remember that claims cannot be met by the government, but are actually satisfied by other people in the community. If the government gives transport or postal services at less than cost, it is given by the taxpayers and not by the government, which is usually more interested in the politics than the economics of the action.

Since, however, all these undertakings represent efforts to give effect to a specific social policy, we have to ask ourselves whether an independent corporation can be allowed to decide that policy. Conflicting interpretations of social policy in respect of banking and transport are obvious. Railways in Australia are regarded primarily from their value in furthering the social policy of developing our national resources. The rate structure which has been built up is an important instrument in that policy, for by varying the rates the incidence of transport costs can be shifted from one class of producer to another, or from one body of railway customers to another. In the hands of an independent railway commission the rate structure might be used to make the railway "pay." In the hands of a political executive, this may be unimportant, and the rates might be (one might even say they have been) manipulated to the advantage of a political group, or, perhaps with more justification, to redistribute the burdens of government as between city and country.

Railway administration thus becomes not merely a matter of running the railways, but of running them to produce specific results. And the conflict between rail and road transport is not merely a question of the relative efficiency of either system, but one of using a State monopoly to promote the social policy of the government in power. In these circumstances, the "efficiency" objective of the "expert" will have to embrace more than balance-sheets, else it will receive scant consideration at the hands of a popularly elected Minister bent upon promoting what he conceives to be the social policy of his party.<sup>3</sup>

(3) Is the system of creating Statutory Corporations a means of deluding people? The answer here depends upon what people think rather than upon the actual status of the Corporation. For if people believe that the management of Railways, Ports, Hospitals, and Public Servants has been removed from political control, and it has not, not only are people deceived but they are disarmed. Did they fully appreciate the real position, they might be induced to fight

<sup>3</sup> It is in resolving conflicts of this character in which there may conceivably be a cleavage between the interests of the people and those of the Government (the political party in power for the time being) that it seems desirable to have administrative tribunals with power similar to that now committed to civil courts. (See "Trends in Australian Politics", Article: Bland.)

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for reform. As it is they are lulled into inaction by a system which operates quite differently from what they believe. For example, the average person believes that Public Service Boards are the State personnel authority. In fact, the Boards only control a portion of the public service. Even over those parts which they do control they have no final voice in determining whether appointments are needed, by whom key positions shall be filled, how departments shall be organised, or the actual remuneration that should be given to officers. Again, all States have their Railway Commissions, but the Commissioners cannot determine what lines shall be built, the speed with which construction shall be carried out, the fares and freights that shall be charged, and frequently what contracts shall be let for rolling-stock. Ministers constantly claim that they have decided to build a particular line, to reduce fares and freights, and to let specific contracts. And yet the Railway Commission are popularly thought to be responsible for the results of railway working. In other words, it will be too often found that the Statutory Corporation is a veil for political control, which is the more sinister because the people have been led to believe that the Corporation was "independent." Because we refuse to accept the implication of the Statutory Corporation, politics still influences administration.

(4) Is it desirable or possible to create Statutory Corporations which are autonomous? Those who believe in a planned economy or in the positivist State will have no doubt that it is undesirable. And those who fear the excesses of bureaucracy as well as those who believe that good government is no substitute for self-government will also agree. But there are still the hard facts of the experience of political operation of transport, banking, and manufacture to contend with. Even fascist Italy and communist Russia find it necessary to ensure that the costs of government shall be low enough to allow them to sell their commodities at remunerative prices. And both are making supreme efforts to secure efficiency. The Democratic State cannot afford to be less efficient.

Before we go further with the question of desirability, let us examine the possibility of creating autonomous corporations. Obviously, the autonomy can only be relative, and it must be limited to the specific function to be discharged by the Corporation, e.g., Transport, Banking, Irrigation. But even here there are difficulties. Autonomy is affected by methods of appointment. Can members of the Corporation gain their position other than by appointment by the political executive? And if not, will they be efficient or "independent" if kissing goes by favour? Is it possible to devise means of electing them directly or indirectly? Does the method of

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appointing the London Passenger Transport Board offer any clue?<sup>4</sup> And what tenure will members have? "During good behaviour," for a term of years, or for life? And what of dismissal? Shall it be by the Government, or by Parliament, and if by the Parliament will that be a real safeguard?

Then again, should the members of the Board be expert, representatives of interests, or merely individual citizens acting as a Board of Directors with a general manager? If the Board is directly to administer the undertaking, there can be no room for the representative principle, for that involves not only a conflict of interests but a conflict of duties. Too many of our corporations fail because members are placed in this predicament. Clearly a Minister ought not to be a member.<sup>5</sup>

Finance is another problem. Should the finances of the Statutory Corporation be separated from those of the ordinary Budget? And if they are, how will their operations be reflected in the general financial position of the State?

If they are not brought into the Budget, the cardinal principles of comprehensiveness and unity are violated. Furthermore, there will be a tendency to deal with different aspects of the public finances in isolation from each other. And this may be fatal to sound financial policy. For example, rates and fares and other charges made by statutory corporations may result in extracting more taxation than is warranted, and the assignment of specific revenues to specific purposes may mean extravagance in one section of government activities while other services are being starved. It is clear that both Parliament and people ought to be in a position to look at public finance and taxation as a whole. But one of the reasons for creating Statutory Corporations is to relieve them of dependence upon Parliamentary appropriations. The annual provision of funds means that long-term policies are impossible. If that objective is to be secured, the Corporation must be in a position to provide its own finance, husband resources, build up reserves, and amortize its own capital debt. It is suggested that even if the financial results of the Corporations are included in the Budget, it does not necessarily mean that Parliament must vote their funds.

Will this independence also extend to the right to raise loans? Can this be conceded without jeopardising the credit of the government? And yet if the Corporation has not the right to raise its own loans, how can it pursue long-term policies of finance? But

<sup>4</sup> Other interesting suggestions for removing the appointment of Boards from the political executive are contained in the report of the South Australian Royal Commission on Railways, 1931, and in the evidence of Professor Giblin before the Banking Commission, 1936.

<sup>5</sup> Professor Dimock takes it for granted that a Minister ought to be a member of the Board of every Statutory Commission in U.S.A. in order to safeguard the financial interests of the Government.

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again, if the Corporation finds it impossible to maintain its credit or to meet its interest bill, will it not have to fall back upon the State? Alternatively, it can be given the right to fix its charges or fees, and these can be related to the commitments of the Corporation. But what if this policy clashes with the general policy of the Government? How will a conflict between the Government and the Corporation be decided, or between the "consumers" and the Corporation? In other words, to whom will the Corporation be responsible?

And what of personnel policy? Ought the Corporations to be given "independence" in staffing, organisation, and pay? Has previous experience in Australia given us any clue to the best policy to adopt? It may be that ordinary public service personnel systems are unsuitable for "business" corporations, and that more elasticity is desirable. For example, can the same degree of permanence be given to staffs of corporations where the business is of a fluctuating character as is afforded to the conventional public service?

These and many other questions clamour for consideration, and the record of our attempts in Australia to create Statutory Corporations show how indifferently they have been answered. They are a grim reminder of the fact that we have been trying to gain the advantages of two systems which are mutually opposed. And they confirm the doubt whether it is possible, in any but a very few select cases, even to concede autonomy in administration. For government policy will constantly be affected by the way in which affairs are administered, e.g., in regard to overtime, wage rates, working hours, contracts; and this quite apart from the terms of the Statute prescribing the powers of the Corporation. For example, in Victoria, the Railway Commissioners were so hampered by Ministerial directions that provision was made to enable the Commissioners (a) to ignore any direction other than a Cabinet minute, and (b) to charge the Government with the cost involved by any such direction. But even that drastic step has been ineffective in checking political interference. Efficiency is thus subordinated to Social policy.

Must we therefore conclude that it is impossible to create autonomous Corporations for the management of our national services? They cannot be autonomous in matters of policy: that will be determined by Parliament at the behest of the political executive. They ought not to be autonomous in matters of administration because that would leave us open to the danger of official despotism. But we cannot leave control in the hands of the political executive if we wish to promote efficiency. Can we devise other means of control? I believe we can, and I am sure we must try to. As party politics are now developing, I am convinced that

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we shall have to discard the theory that, in administration, only the popularly elected executive represents the people's will, and should be the only medium for its expression. The Statutory Corporation may itself be an alternative, provided we can find a solution to the problem of appointing its members.

The outstanding task of this generation is to work out the problem here faintly adumbrated. Events in Russia, Germany and Italy clearly demonstrate that the interests of the political party in power are different from the interests of the general community. We ought not to find it necessary to have recourse to an insurrection or a general election, to mould the "administration" of public policy closer to our ideas. Given a Government accepting the fundamentals of our social order and which wished to give effect to the platform of the party electing it, what could it do? It could persuade Parliament to embody that policy in legislation and it could abolish or reconstitute every Statutory Corporation. During its term of office it could wreck the whole administrative framework of the State and only a general election could arrest its course. In greater or less degree that has been going on in Australia for a generation. One government destroys what its predecessor built, only to find itself out of harmony with and rejected by the people. Obviously the people find that their interest is different from that of the government. Some few things are held sacrosanct, e.g., the Constitution, and attempted violations of that are restrained by the Court, and accepted even if such restrain imperils the whole economic policy of the Government, e.g., the James case, and Section 92.

Can we not adopt this method of external restraint upon the political executive to administration in general? Are the members of a Statutory Corporation inefficient? Is a Corporation acting capriciously? Do circumstances no longer justify its continuance? Are fares and freights too high? Are bounties and subsidies necessary for an industry? These are matters which ought not to be left to the caprice of a political party, for the test is "the public interest," and that ought to be determined in a judicial fashion and not by direct party politics. It will mean the constitution of administrative tribunals, and we have already made a commencement with Public Service Boards, Arbitration Courts, Tariff Boards, and Taxation Tribunals. Given this system, we could easily confer the widest autonomy upon Statutory Corporations in matters of administration, for if the public interest was challenged by any of their actions, the Government, or other interested party could bring a suit before the appropriate tribunal to remedy the alleged injury. It would mean slowing down the work of government, and it would necessitate a much more alert and tolerant political opinion than now exists, but

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the gain would well repay the suppression of the primitive instincts which so often find expression in our political actions.

Huxley used to say that Spencer's idea of a tragedy was a theory killed by a fact. Shakespeare's perpetual idea of a tragedy was a wise man killed by a fool. An administrator's conception of a tragedy might well be public welfare sacrificed on the altar of ignorance, and efficient administrative agencies continually handicapped by the selfishness of party politics.

# The Place of Public Administration in a Changing Society

By R. C. JARVIS

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## INTRODUCTORY

THE practice on the part of Parliament of delegating to departments of State authority to make and administer regulations having the force of law has of late occasioned very considerable criticism. Post-war social and economic changes have been so rapid in time and so fundamental in nature as to be but little short of revolutionary; these changes have been reflected in State policy, and have resulted in bold experiments in governance. Furthermore, the conception of private liberties has suffered somewhat by the rise of a more collective ideal, and as a result legislation has tended to be less simple. Acts are passed in skeleton form, vesting powers of fuller elaboration, really judicial and legislative in nature, in the administrative organs of the State.

It is to the exercise of these *quasi-judicial* and *quasi-legislative* powers that criticism has been directed, but much of such criticism has been directed not at all towards the collective ideals which this system helps to effect, nor to the rapid changes in society, of which the legislation is a reflection; criticism has in the main been rather less fundamental. While prepared to admit some fair measure of success to the venture as a whole it has qualified the admission by the contention that the practice offends against certain legalistic canons, and impinges upon the sovereignty of Parliament, no less a person than the Lord Chief Justice, for instance, seeing the whole process as a conspiracy on the part of the administration to place departmental activity entirely beyond the law. Lord Hewart sees the administrator as "a departmental despot . . . at once scientific and benevolent, but above all a law to himself" who, flouting the sovereignty of Parliament and disregarding the rule of law, aims "to employ the one to defeat the other, and to establish a despotism on the ruins of both."<sup>1</sup>

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As might perhaps be expected, the attack of the Lord Chief Justice finds amplification (if not distortion) in quarters, which if less authoritative, yet secure wider publicity.

In a series of broadcast addresses, for instance, during the autumn of 1936, under the title of "This Freedom of Ours,"<sup>2</sup> Mr. Frank Birch spoke of bureaucracy's "attack upon personal freedom," its alleged immunity from the ordinary courts, the overthrow of the "rule of law," the non-observance of the "separation of powers," and the negation of the "sovereignty of Parliament," views of his which seemed also to secure the approbation of Lord Macmillan, a Lord of Appeal, who introduced the addresses.<sup>3</sup>

As a result, the public's incoherent grumblings are not only amplified but tend moreover to crystallize round what is thus thought to be a constitutional issue,<sup>4</sup> and the somewhat natural resentment of the ordinary citizen towards (say) income tax collection, becomes sublimated (to use the psychologist's jargon) into a supposed struggle for personal freedom.

In the meantime the danger is that the official himself might become too easily persuaded in the face of the high authority of those who have spoken, that the part which he himself is taking in the practice of public administration is merely that of an innocent tool in an insidious conspiracy, which "is deliberately, persistently, and successfully undermining the constitution, in order to gain despotic power."<sup>5</sup> Such persuasion would naturally tend to vitiate all his efforts in the public service, sap his zeal, and thereby render him completely out of sympathy with his own profession.

It is the thesis here advanced, however, that the exercise of these *quasi-legislative* functions by the executive does not in fact offend against the "sovereignty of Parliament"; that if the exercise of *quasi-judicial* functions offends against the "Rule of Law," it is because such doctrine is not ideally suited to the purpose at hand; that to invoke the doctrine of "the Separation of Powers" with regard to the sphere of administration is not to the point, since the "separation" is admittedly universally incomplete; that a study of the historical precedents shows that times of social and economic change analogous to the present, might be expected to feel out for a new technique to apply to the new conditions; and finally that the practice of public administration, is, in point of fact, satisfying those demands which history is found to be making upon it.

### CONSTITUTIONAL

It is generally recognised that legal power in a Sovereign State is divided in a threefold manner, that is, between the legislature which has power to create the law, the executive which has power

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to administer it, and the judicature which has power to interpret and construe. From a recognition of this tripartite division there has arisen a doctrine known as the "separation of powers," by which separation the liberty of the subject, it is contended, is most effectively secured.<sup>6</sup>

The doctrine goes back to Montesquieu,<sup>7</sup> who argues for a complete separation, but in Britain, however, this separation is not exactly comparable to the *séparation des pouvoirs* in France, for here it is neither rigid nor complete, so that although the distinction between the forms of power may be recognised in the abstract, the division is not clear in actual practice.<sup>8</sup> There has grown up therefore in Britain no separate body of law dealing with State administration, no *corpus* of administrative law comparable to the *droit administratif* in France or *das Verwaltungsrecht* in Germany,<sup>9</sup> so that public administration, finding no special power inherent in itself, must derive its legal justification from the Crown prerogative or from common law.<sup>10</sup> In so far as these may be found inadequate to execute the intentions of the legislature, Parliament has found it both necessary and advisable to grant separate statutory powers. This increase in parliamentary delegation, involving as it does the exercise of considerable legislative and judicial powers outside the legislature and judicature proper is as characteristic a feature of modern administration<sup>11</sup> as the exercise of such *extra-administrative* powers became in the conciliar government of the early Tudors,<sup>12</sup> but it will make for nothing but confusion however to refer to this modern tendency as "the use of lawless methods for the attainment of social or political ends."<sup>13</sup>

Since public administration finds within itself no special power, then in point of actual fact every *extra-administrative* act performed by the administrative machine must of necessity derive its legality from statute law, or else, in the absence of a *droit administratif* the meanest citizen could successfully challenge it in the ordinary courts. If this is the case then the power of jurisdiction of Parliament is as absolute to-day as it was when Coke, the great jurist, laid it down as a principle over three centuries ago.<sup>14</sup>

And this remains true notwithstanding even those instances most readily cited to prove the contrary. Objection has, for instance, been taken to the insertion of the so-called "Henry the Eighth clause"<sup>15</sup> into certain Acts,<sup>16</sup> a clause which empowers the executive to prescribe regulations not only to give effect to the law as enacted by Parliament, but even to amend statute law itself.<sup>17</sup>

Such grants are not grants of arbitrary power, however, but defined and delimited power, exerciseable only for their proper

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purposes, namely, for bringing into full effect the expressed intentions of Parliament, whose sovereignty therefore remains absolute.

Thus in the exercise of these *extra-administrative* powers by the organs of administration, it is the doctrine of the "separation of powers" which is offended against, rather than the "sovereignty of Parliament" impaired. But then this of itself would be no precedent, such "separation" never having been complete, for not only does the executive overlap in certain respects the judiciary and legislature, but the judiciary and legislature themselves also overlap their co-ordinate services. Compare, for instance, the position of the Lord Chancellor<sup>18</sup> himself as head of the judiciary, member of the legislature, and official of the executive. The Law Officers<sup>19</sup> also occupy anomalous positions, while even ordinary justices of the peace have performed in the past,<sup>20</sup> and indeed continue to perform<sup>21</sup>, purely administrative duties; while the courts generally have some measure of legislative power;<sup>22</sup> nor are the functions of the legislature entirely confined to legislation.<sup>23</sup>

It would therefore indeed be surprising if history had contrived it that the executive alone of the three orders of power had been confined entirely within the boundaries laid down for it by the theorists of the judicature. It might be concluded then in this regard that although the exercise of *quasi-judicial* and *quasi-legislative* functions on the part of the executive might be thought to offend against the doctrine of the separation of powers, yet the doctrine itself is but a theory grafted somewhat imperfectly on to the facts, and a doctrine furthermore which has never become fully acclimatised to the British constitutional atmosphere.

The situation with regard to the "Rule of Law" is rather more difficult. The Lord Chief Justice has defined the "Rule of Law" as the supremacy or predominance of actual law in determining the rights of individuals.<sup>24</sup> Now it is obvious that at any given time the established law will concern itself primarily with just those historic rights and liberties which have formed historically the very basis of present liberties; but the law will, perhaps on that very account, be but ill-fitted to give effect to emergent ideals—those ideals which although potentially present at any time, become more insistent in such periods of marked social change as the present. It is not to be wondered at therefore that the law, while preserving those individual privileges which it regards as the very basis of all social life, is conservative of any change in regard to them, while public administration, feeling itself to be, on the other hand, the instrument of basically sound social reform, tends to become opposed to the mere legalism of the courts. The administrator feels that "where administrative cases are determined by law courts a narrow legalistic view-

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point prevails . . . . and *that* interpretation [of statutes] is adopted which gives least power to the administration and least disturbs the *status quo* and the hallowed rights of individuals.<sup>25</sup> Efforts to compel departments of State, in the exercise of any *quasi-judicial* function, to follow the restrictive procedure of the courts was defeated by the Lord Chancellor's<sup>26</sup> judgment given in an historic case,<sup>27</sup> but whether the administrative procedure then authorised conflicts with so-called "natural justice," is a matter keenly disputed. Certainly the recent resurrection of this doctrine of "natural justice" and its consequent case-law complications, cannot be entirely divorced from the political and economic background without the doctrine losing its true significance, namely, as a matter useful as serving to defend the old-established property rights against the "encroachments" being made by the movement for a wider freedom.<sup>28</sup> Indeed if the executive holds considerable powers of interference with these hitherto recognised private liberties, it is but in the interests of a wider freedom for a greater number.<sup>29</sup> It has been doubted, for instance, whether many of the local authorities concerned would have had the courage to institute such rigorous slum-clearance policies had they not been able to lay upon Parliament the blame for its harshness to the property owner.<sup>30</sup> But whatever the intentions of Parliament might be in this matter it is undoubtedly the practice of the courts to impose upon departments of State as restrictive an interpretation as the text may possibly admit.

If then, this much-abused "Henry the Eighth clause" arms the administrative organs with such wide powers, it might well be questioned whether it is not that the administrative machine is thus enabled to give more direct effect to Parliament's intentions, rather than the judicial machine, which remains primarily concerned with maintaining principles not so immediately applicable to modern affairs.

### HISTORICAL

So far as the text of the law is concerned the very name by which, among constitutional lawyers, this most offending provision has become known<sup>31</sup>—"the Henry the Eighth clause"—is itself a clue to its origin and history, for it derives its name from an Act of Henry's, the Statute of Proclamations,<sup>32</sup> a short-lived Act,<sup>33</sup> whose purpose it was to confirm<sup>34</sup> grants of considerable law-making power to the executive arm. It is not possible, of course, within the scope of this essay to trace the rise and decline of those administrative Acts which do not possess the authority of Parliament itself,<sup>35</sup> but it is sufficient for the purpose at hand to note that some measure of legislative and judicial power was held by the executive even prior to Tudor

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times,<sup>36</sup> and also subsequently to the parliamentary repeal of this particular statute.<sup>37</sup> The fact is (which may be amply proved by an examination of the uses to which these *extra-statutory* powers were put), that the early Tudor monarchs found themselves in circumstances closely analogous in certain important respects to those of the present day, and it is to precisely this fact that students of legal and constitutional usages to-day must look to find the particular significance of the Tudor experiment. The old mediaeval organisation was rapidly breaking up, giving rise thereby to a whole range of new problems which pressed for urgent solution, problems which the law of itself was but ill-fitted to solve. But Henry VII lacked not only legal sanctions but also a strong central administration which could regulate the new conditions of trade, define the new and unfamiliar social relations, and above all things control what is now called local government.

But by reasons of the nature of his coming, he had no desire and no intention of breaking too completely with the past: he desired to preserve at least the appearance of continuity of development. The importance, therefore, of this period in the history of English law lies not so much in the statutes which were enacted, but precisely in the showing that the old customs and the common law could be made to serve as a basis for the modern State.<sup>38</sup> To this end then, under Henry VII and VIII it was the council which was developed into the chief organ of government, seeming almost more important than Parliament itself.<sup>39</sup>

Government by this means became more intensive as well as more extensive, and it is this very wide increase of the power of the central administration which is the remarkable feature of the new machinery of State. Apart from the Statute of Proclamations,<sup>40</sup> power was acquired, in the case of the assimilation of Wales, not only to supplement the law where statutes were silent, but to supplant them even where they were explicit.<sup>41</sup> While in the North also wide judicial and administrative powers were exercised by the Council.<sup>42</sup> A new modern State then was in course of creation, giving rise to a situation that could not be met by grafting mere bits of machinery on to the old. As whole new fields of activity came now under State observation and regulation, new departments of State sprang into being, and consequently new ministers were appointed.

The old departments of State then were not able to cope with all this new governmental activity, nor was it desirable that they should. Indeed their authority, as an eminent legal historian has said,<sup>43</sup> "was limited by fixed legal rules and by their terms of appointment. They were therefore unequal to the task of regulating such new activities of the State as foreign trade, the supervision of local government

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..... and colonial enterprise. The necessary regulation of these new functions of the State was effected by the Crown through the Secretary of State . . . . and it is the growth of the importance of the *Office* of Secretary of State during the latter part of the [16th] century which is the clearest indication of the changed conditions of home and foreign politics, and of the new position, which in view of the changed condition, the State was gradually taking up.<sup>44</sup> It was then, the various Commissions and Committees of the Council which provided the new machinery for bringing under the control of the law the new commercial activities, and for checking those abuses which changed social and economic conditions gave rise to, and it was therefore out of these Commissions and Committees of the Council thus brought into being, that the modern Departments took their rise.

Nor was it the Crown and administration alone that was finding how necessary it was to call something into being to replace the old; how insufficient the old rules of customary law really were; how archaic in substance, and how cumbersome in administration. The necessity was also felt by the "private person whose demands upon the resource of law grew more exacting with each advance in political, social and economic development."<sup>45</sup>

Contemporary writings prove how urgent the need really was, and furthermore when met, how beneficial the change was to all but the designedly lawless. More's "Utopia" and other works little known perhaps except to the historical student are eloquent of how the law itself had become one of the principal aids to the lawless,<sup>46</sup> of how "the over-mighty subjects,"<sup>47</sup> "men of power and force," had of necessity to be summoned before the King's own Council<sup>48</sup> where mere power and subtlety of learning were of no avail;<sup>49</sup> of the consequent advantage to the law-abiding citizens,<sup>50</sup> the rising traders, and "poor persons"<sup>51</sup> generally; of the good effect of all this *extra-judicial* and *extra-legislative* exercise of central power,<sup>52</sup> and in general of the success of the whole policy.<sup>53</sup>

Not only then was order firmly administered in the new circumstances,<sup>54</sup> but new law was created to regulate the new conditions, and much of it was created entirely outside Parliament. A study of the proclamations in particular will show that by far the greatest proportion of them dealt with the administration of government and with new problems of trade and commerce. To give only one group of examples—in a country which was in the course of wide agrarian changes at home, and which abroad had not yet developed a considerable trade in foodstuffs, the possibility of a food scarcity, indeed almost of famine, had of necessity to be reckoned with. Tudor

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proclamations and the cases which came before the Star Chamber are full of references to this matter. Besides those proclamations dealing with the economic field generally (e.g., enclosures,<sup>55</sup> the evaluation of gold coin,<sup>56</sup> etc.), there are numerous others dealing with the prices of such goods as wine,<sup>57</sup> sugar,<sup>58</sup> meat,<sup>59</sup> etc. It was felt essential to take steps to prevent the "ingrossing regrating and forestalling" of corn,<sup>60</sup> to secure sufficient stocks both from the home market<sup>61</sup> and, if necessary, from abroad,<sup>62</sup> to control the internal movements of corn<sup>63</sup> and to have power to prevent export in case of scarcity.<sup>64</sup> These matters had come to have vital concern to public well-being, and it was on this account that the administration had of necessity to interfere with private privileges in this field in the interests of a wider public freedom.

These then were the tasks—to create a body of law to express the social and economic policy of the State, and to construct the machinery of administration to give it effect. The primary difficulties as seen at the time have not been more briefly stated than in the preamble of the very Act in which is found the so-called "Henry the Eighth clause" so often invoked to-day. The Crown felt, it says, the "lack of a direct and statute law to cohart offenders," nor could the situation always be met with new statutes, "considering also that sodn<sup>65</sup> causis and occasions fortune many times, whiche do require speedy remedys, and that by abidinge for a Parliament in the mean tyme myght happen great prejudyce to insure to the realm. . . . ."<sup>66</sup>

The case for the exercise of extra-administrative functions by the organs of administration could not be put to-day with greater brevity than it is in this old Act.

### ADMINISTRATIVE

There are certain factors patent to-day that lead men to speak of the present as being a time of transition similar to that of the Tudor period. If this is really so then the student of history will expect to find certain features which characterised Tudor times reproduced also in society to-day, while the student of public administration will expect to see these features most developed in his own sphere.

Both expectations are fulfilled.

The Tudor interferences in such economic fields as commodity markets, prices and trade generally finds its counterpart to-day in such interferences with trade as tariffs,<sup>67</sup> quotas,<sup>68</sup> marketing schemes,<sup>69</sup> import restrictions,<sup>70</sup> production control,<sup>71</sup> and so on, while the birth of new departments in Tudor days is repeated to-day by such new bodies as the Wheat and Sugar Commissioners, the

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Spindles Board, the Import Duties Advisory Committee, and the like.

To some extent these entail interferences in fields which previously "enjoyed" uninterrupted individual "liberties," wherein each new measure brings further powers to the administrative machine—resulting that is, in further phases of parliamentary delegation. An examination of the situation with regard to this delegation discloses a number of reasons for the policy. The first and perhaps most obvious factor, that of the sheer pressure upon parliamentary time, must necessarily be dismissed from the scope of this essay, since its matter lies completely outside the province of public administration, as would also any proposal for its remedy.

Apart then from purely parliamentary reasons,<sup>72</sup> three main factors present themselves for consideration:—

1. The urgency of measures.
2. Their technicality.
3. The need for elasticity in administration.

As regards the first factor, like the Tudors, we moderns also find "that sudden causes and occasions" frequently occur, "which do require speedy remedies,"<sup>73</sup> for certainly upon the outbreak of some epidemic, or some infectious disease among animals, or the appearance of some destructive pest, "by abiding for a parliament in the meantime" as Henry VIII found, "might happen great prejudice to ensue to the realm." For the general good, therefore, it cannot be wrong that administrators should hold very wide margins of discretion and extensive powers of "interference" in such cases to be invoked at will without further parliamentary reference, especially since the nature of any outbreak is as unpredictable as its locality.

With regard to the second factor—technicality—only a moment's reflection is needed to convince one of the extraordinarily intricate and technical nature of the regulation of international air traffic, the formulation of tariff rates and categories, grants of patents, investigations regarding the need of public assistance, and a thousand and one other matters of State interest.

With regard to the third factor—of elasticity—this is in some respects the most important factor of all, for it is essentially in this regard that the science of administration will differ most completely from the philosophy of law.

To take but a single example: We have seen<sup>74</sup> that the Tudors were vitally concerned about their sources of grain; it may well be that the vital food for modern industrialism is to be found in hydrocarbon oils and industrial spirits; while the State control over the manufac-

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ture of industrial alcohols must necessarily secure the revenue against any actual duty losses, yet in a country absolutely dependent upon overseas supplies of petroleum, it is absolutely essential that at such a time as this, of international uncertainty abroad and of active development in the wider utilisation of industrial spirits at home, revenue control must be characterised by such elasticity as will at least not handicap scientific invention or industrial development. This elasticity can be best secured not by direct statute, but by departmental exercise of statutory powers.

### CONCLUSION

It is most unfortunate if the exercise of such power is construed by those most closely affected as interference with private liberties. Certain it is in some fields, that only by interference with so-called "private liberties" can a fuller measure of freedom be secured for the community at large, and this interference also is effected by the organs of State. It is the emergence of these more collective ideals, and the consequent partial subordination thereto of the older conception of private liberties and privileges, which most clearly distinguishes the present from the past. But, as is natural, the whole *corpus* of the law, rooted in the older conceptions, is fundamentally unfitted to give complete expression to those ideals with which the modern world is pregnant. It is on this account that the State turns therefore to some alternative instrument to give effect to its policy. It might therefore be expected that the first reaction to this "new economic policy" would be an attack upon the machinery whereby the "new deal" is being effected. Although the attacks on the service have not altogether lacked an answer<sup>75</sup> yet it is not to be expected, having regard to the traditions of the service, that service chiefs should concern themselves with defending in public controversy the delegation of power which Parliament has seen fit to effect. But in the meantime it is most essential that the rank and file of the service, both local and central, should not permit itself to be persuaded by the contrary view. Apart from the possible effects already touched upon, loss of personal zeal and alienation of sympathy, there is always the likelihood that an official, having been persuaded that he is part and parcel of a usurping bureaucracy conspiring to become a dictatorship, would tend to conduct himself as such; and as has been shown elsewhere,<sup>76</sup> "it is often the mannerisms of a comparatively junior official, when handling a member of the public, that set the standard of the [public's] opinion of the . . . service."

If the thesis here advanced is accepted, far from each petty official becoming his own little despot ("scientific—benevolent perhaps—but

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above all beyond the law ") the whole of the civil services, local and central, could become infused with the consciousness that public administration may well become the instrument by means of which the contemporary world is achieving a wider and truer freedom—a freedom based not upon the liberties of the individual, but rather upon the human needs of all, and the emergent ideals of to-day. This realisation working through the mediumship of each and every official high and low, would infuse the machinery of State with a vital spirit of real public service, and the administration of State affairs would become indeed a public—rather than a State—administration.

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Henry VIII, c. 28; 1 Ed. VI, c. 12; 15 Car. II, c.; 10 Ed. VII and 1 Geo. V, c. 24; 11 & 12 Geo. V, c. 22; 15 & 16 Geo. V, c. 90; 17 & 18 Geo. V, c. 10. TUDOR AND STUART PROCLAMATIONS—See BIBLIOTHECA LINDESIANA. WILLIAMS, C. H.—The Making of the Tudor Despotism, 1935.

## NOTES.

<sup>1</sup> Lord Hewart, "The New Despotism," pp. 11, 14 and 17 *et passim*, cf. also C. K. Allen, "Bureaucracy Triumphant," *passim*.

<sup>2</sup> "Listener," 405-418.

<sup>3</sup> *Ibid.*, 403.

<sup>4</sup> cf. "Contemporary Review," March, 1937, p. 369, and numerous other press references.

<sup>5</sup> "The (Customs) Journal," 29th March, 1930.

<sup>6</sup> cf. Sir W. R. Anson, "Law and Custom of the Constitution," Vol. II, pp. 247-8.

<sup>7</sup> "De l'esprit des lois" (Book xi, ch. 6), pp. 215-6.

<sup>8</sup> Report of the Committee on Ministers' Powers, p. 4.

<sup>9</sup> cf. A. V. Dicey, "The Law of the Constitution," p. 324 *et seq.*

<sup>10</sup> W. D. Hart, PUBLIC ADMINISTRATION, XIV, p. 302.

<sup>11</sup> Dicey, *loc. cit.*

<sup>12</sup> K. Pickthorn, "Early Tudor Government," Vol. II, pp. 13 *et seq.*

<sup>13</sup> cf. Dicey, *ob. cit.*, Intro. to 8th ed. (1914), p. xxxviii. Anson, *ob. cit.*, Prof. Berriedale Keith's Intro. to 4th ed. (1935), p. iv.

<sup>14</sup> Sir Edward Coke, "Fourth Institute," p. 36.

<sup>15</sup> Anson, *ob. cit.*, Vol. II, pp. 257, n. 4/258 n.

<sup>16</sup> e.g., Rating and Valuation Act (15 & 16 Geo. 5, c. 90, s. 67) and Finance Act, 1921, as amended by the Finance Act, 1927 (11 & 12 Geo. 5, c. 32, s. 16 (1), and 17 & 18 Geo. 5, c. 10, s. 13).

<sup>17</sup> cf. Lord Hewart, *ob. cit.*, pp. 9-10 *et passim*.

<sup>18</sup> Anson, *ob. cit.*, pp. 168-9 and 220-1.

<sup>19</sup> *Idem.*, p. 221.

<sup>20</sup> cf. Administration of highways under early turnpike Acts (15 Car. II, c. 1).

<sup>21</sup> cf. Duties under the Licensing Consolidation Act (10 Ed. 7 & Geo. 5, c. 24, s. 1). cf. also Lord Halsbury cited. L. Page, "Justice of the Peace," pp. 217-8.

<sup>22</sup> Dicey, "Law and Public Opinion," p. 359, and "The Law of the Constitution," p. 58.

<sup>23</sup> Coke, *ob. cit.*, p. 23.

<sup>24</sup> Lord Hewart, *ob. cit.*, p. 9.

<sup>25</sup> E. J. R. Eaglesham, PUBLIC ADMINISTRATION, XIV, p. 157.

<sup>26</sup> i.e., Lord Haldane's.

<sup>27</sup> L.G.B. and Arlidge (1915) Appeal Cases, 120.

<sup>28</sup> This is clearly demonstrated by Dr. W. Ivor Jennings, PUBLIC ADMINISTRATION, XIV, pp. 332 *et seq.*

<sup>29</sup> cf. Water Supplies (Exceptional Shortage Orders) Act, 1934, and also various Slum Clearance provisions.

<sup>30</sup> W. O. Hart, PUBLIC ADMINISTRATION, XIV, p. 303.

<sup>31</sup> Anson, *ob. cit.*, Vol. II, pp. 257 n. 4/258 n.

<sup>32</sup> 31 Henry VIII, c. 8.

<sup>33</sup> Repealed. Edward VI, c. 12, s. 5.

<sup>34</sup> Tudor and Stuart Proclamations, I, clxxx, ii-v.

<sup>35</sup> W. S. Holdsworth, "History of English Law," Vol. VI, pp. 439-40, and Coke, "Reports," 6, 297.

<sup>36</sup> Anson, *ob. cit.*, II, 25-28.

<sup>37</sup> cf. Proclamation, 10 May, 1581 (22 & 23 Eliz.), declaring an expired Act in full force—"This question is not to be raised in any Court of Record."

<sup>38</sup> Holdsworth, *ob. cit.*, IV, p. 28 *et seq.*

<sup>39</sup> cf. A. F. Pollard, "English Historical Review," XXXVII, p. 337.

<sup>40</sup> 31 Henry VIII, c. 8.

<sup>41</sup> 24 & 25 Henry VIII, c. 26; 34 & 35 Henry VIII, c. 28, s. 119; see also J. F. Rees, "Tudor Policy in Wales," pp. 12-13.

<sup>42</sup> K. Pickthorn, "Early Tudor Government," Vol. II, pp. 33-35.

<sup>43</sup> Holdsworth, *ob. cit.*, IV, p. 66.

<sup>44</sup> cf. in this connection the discontinuance of certain of the "Rolls" Series in the Archives and commencement of the modern series of "State Papers" (Galbraith, "The Public Records," p. 56).

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<sup>45</sup> Holdsworth, *ob. cit.*, Vol. IV, p. 217.  
<sup>46</sup> cf. also C. H. Williams, "The Tudor Despotism," p. 11.  
<sup>47</sup> Fortesque, "Absolute and Limited Monarchy," p. 57.  
<sup>48</sup> Smith, "De Republica Anglorum," Lib. 3, ch. 4.  
<sup>49</sup> Starkey, "England," p. 192.  
<sup>50</sup> Hall, "Chronicle," I, p. 152.  
<sup>51</sup> "Letters and Papers," III, No. 571.  
<sup>52</sup> Cavendish, "Wolsey," pp. 2-4.  
<sup>53</sup> "Letters and Papers," II, p. 1539, and Preamble, 32 Henry VIII, c. 50.  
<sup>54</sup> A. F. Pollard, "English Historical Review," XXXVII, p. 533, and T. G. Leadam, "Select Cases before the Star Chamber," Vol. ii, xxi.  
<sup>55</sup> "Tudor and Stuart Proclamations," Vol. I, No. 105.  
<sup>56</sup> *Ibid.*, Nos. 106/7, No. 115.  
<sup>57</sup> *Ibid.*, Nos. 62, 114, 254, etc.  
<sup>58</sup> *Ibid.*, Nos. 188, 228, etc.  
<sup>59</sup> *Ibid.*, Nos. 133, 143, 181, etc.  
<sup>60</sup> *Ibid.*, No. 110, and "Select Cases before the Star Chamber," Vol. II, pp. xxi, 221-4 and App. II.  
<sup>61</sup> "Select Cases," Vol. II, p. 165 *et seq.*  
<sup>62</sup> "Letters and Papers of Henry VIII," Vol. IV, Nos. 3542-3 and 4244.  
<sup>63</sup> "Select Cases," Vol. II, pp. xxv, 168 *et seq.*  
<sup>64</sup> *Ibid.*, pp. xxv, 225-6 and 277-83.  
<sup>65</sup> Sudden.  
<sup>66</sup> Preamble, 31 Henry VIII, c. 8, cf. also "Tudor and Stuart Proclamations," pp. clxxxii/v.  
<sup>67</sup> The various Exemption, Duty, Substitution and Drawback Orders, 1932-7, under the Import Duties Act, 1932.  
<sup>68</sup> cf. the Wheat Act and various Trade Agreements.  
<sup>69</sup> cf. the Milk, Sugar, Beet, Hops, Herring and other Marketing Schemes.  
<sup>70</sup> Importation of Meat Order, 1932, the Cattle, Bacon and Pork (Regulation of Importation) Orders, 1933-35.  
<sup>71</sup> cf. Regulation of Landing, and the Restriction of Fishing Orders, 1933.  
<sup>72</sup> For which see Anson II, p. 249.  
<sup>73</sup> 31 Henry VIII, c. 8.  
<sup>74</sup> *Supra*.  
<sup>75</sup> cf. W. A. Robson, "Justice and Administrative Law."  
<sup>76</sup> L. Hill, "The British Civil Servant" (Edited by W. A. Robson).  
<sup>77</sup> Lord Hewart, *ob. cit.*, p. 14.

# Trade Unionism in the Civil Service

By J. W. BOWEN, J.P.

[*Lecture delivered to the Institute of Public Administration, London, March, 1937*]

**D**EFINITIONS of Trade Unionism in the Civil Service may not be synonymous with those understood by industrial organisations. While, to-day, Civil Servants may appreciate the value of combination, there are many who are disinclined to adopt methods which have to be employed in other walks of life in order to deal with conditions, the unsettled and frequently hazardous nature of which finds no counterpart in the administrative work of the Civil Service or in most of the Departments.

Trade Unions have now a much wider area of activity than their pioneers. Industrial and social legislation have increased their functions and expanded their responsibilities. They have to be well equipped, and skilfully and efficiently directed; their main objective can, however, be defined in simple terms:—

“ To free the wage-earners from poverty, and to enable them to share the leisure, comfort, and the opportunities of a fuller life that science and mechanical invention have brought within the reach of all.”

But those who deprecate the forthrightness of the industrial trade unionist or who persuade themselves that a sharp distinction can be drawn between a man who serves for a salary and another who slaves for wages, must recognise that the main objective of either, in combination with his fellows, is to obtain a better valuation of his work, and the means whereby he may receive a larger share, and what he will describe as a fairer distribution of the product of labour; in short, both have to work for their living.

## *Insularity is Dangerous*

That the Civil Service maintains a high standard of efficiency, loyalty and regard for service to the State I think is indisputable. Its virtue has some reward in the confidence reposed in it by the public, even if difficulty is not infrequently experienced by Civil Servants in meeting their household bills. I suggest that the spirit

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of trade unionism has had a wholesome effect on a one-time insularity which threatened to destroy, not only the soul, but important in his lifetime, the material and economic stability of the individual.

The "Public Service" spirit of the past was exploited and the taxpayer derived the main benefit, but there has developed a personality, which while aiming at the utmost personal efficiency and regard for the interests of the State, nevertheless realises that individual articulation of a sense of grievance avails nothing, and that joint responsibility has to be shouldered, in combination with others, to secure attention to legitimate representations.

Experience has brought the Civil Servant of all departments to the understanding that those placed in authority over him employ in the main the same economic arguments as those of employers in other industries.

Tradition is dying but slowly, and there are still scores of organisations of Civil Servants who "fight shy" of the title "Union" or "Trade Union." Many of them cherish the notion that it is desirable they should remain organised solely on a grade or class basis. They have still to learn the lesson that their existence as such perpetuates two conditions which are damaging to their own progress, one, the weakness of their own isolation, and the other, jealousy between grades.

No more striking example of unity of action and co-operation can be found than is afforded by the organisation of the Treasury and the Departments in the control of staff and the joint consideration of conditions affecting them. In a word, the combination of the official side might well be emulated and improved upon by the staff side.

### *The Extent of Civil Service Organisation*

The multiplicity of Civil Service Associations and the large number of men and women not in any of them is regrettable, but it should not be forgotten that the Civil Service will compare very favourably with most industries in respect of organisation.

In round numbers there are about 450,000 Civil Servants, including the industrial staffs employed in the Post Office, dockyards, and other places. If we exclude about 85,000 industrial staff employed outside the Post Office and catered for by other trade unions, we have left a body of about 365,000 men and women and juveniles. Out of that number more than 295,000 are in recognised associations. In addition there are perhaps 3,000 or 4,000 in Post Office secession unions, some of which have official recognition. This is equivalent to nearly 80 per cent. organised, which is a very creditable performance by comparison with other trade union organisations, especially

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when it is remembered that quite a large number of Post Office staff are on a part-time basis and are difficult to organise.

The main unions and federations, and approximate membership, are:—

Union of Post Office Workers	...	...	...	113,000
Civil Service Confederation (including the Civil Service Clerical Association, 43,300)	...	...	...	96,000
Post Office Engineering Union	...	...	...	25,000
National Federation of Sub-Postmasters...	...	...	...	15,000
Institution of Professional Civil Servants...	...	...	...	10,000
Federation of Post Office Supervising Officers	...	...	...	8,000

In the trade union movement as a whole there are over 1,000 unions with a membership now of over 5,000,000.

Out of those 1,000 odd unions there are 13 or 14 unions or federations with membership of over 100,000. They account between them for nearly three-fifths of the total trade union membership.

The U.P.W. and the Civil Service Confederation are among the first fifteen of the big battalions of the Trade Union movement.

### *Status of Civil Service Unions*

The vastly improved status of Civil Service Unions as compared with the position 50 or 25 years ago, can be illustrated from several aspects.

1. The wide range of subjects discussed directly and on the Whitley Councils. About 25 years ago the Postmaster-General, (Sir Herbert Samuel) held that it was outside the province of the United Kingdom Postal Clerks' Association to conduct a campaign for postal cheques. A similar restricted view now would rule out a very large part of the work of the Whitley Councils.

2. Nowadays the Departments are willing to discuss with the Associations and Staff Sides, at least some questions of policy and their application, in advance of actually carrying them out. For example, there were prior discussions with the Post Office on

- (a) Telegraph Reorganisations.
- (b) Extended hours of Telephonists.
- (c) Introduction of the Transorma Letter Sorting Machine.

3. Associations or individuals are now allowed to give evidence on non-wage questions to Departmental Committees of Inquiry, e.g., the Bridgeman Committee.

4. The readily granted access of union officials to Heads of Departments or their advisers and deputies is something that did not exist 25 years ago; approaches at that time were much more formal and difficult.

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5. The formation of the Civil Service Industrial Court represents a big advance on the pre-war position. In 1914 the Postal and Telegraph Clerks' Association proposed to the Post Office a joint committee on demarcation of duties, to apply principles previously agreed upon; disagreement about their application to be submitted to arbitration by an officer appointed by the Board of Trade. The Secretary to the Post Office (Sir A. E. King) would not hear of it. He wrote:—

“ This proposal in fact amounts to a claim that representatives of the staff should be associated with the Postmaster-General in the management of the Post Office. . . . ”

### *Growth of Associations*

A brief history of the development of the Associations may be helpful at this stage. There is not much that can be said about trade unionism in the Civil Service prior to 1914, apart from the organisation of Post Office grades, in fact there was but little development before 1920, when the establishment of the Whitley system gave an impetus to grade claims for representation.

Boy Clerks, and later Assistant Clerks, profoundly and justifiably dissatisfied with their conditions of employment, had organised themselves long before 1914, and had engaged in fruitful parliamentary activity.

The Second Division Clerks had also organised. They were the only purely Treasury class which at that time combined for general expression of their grievances and aspirations.

They were followed by the Intermediates, now Executive Officers, in the formation of the Society of Civil Servants.

The Staff Clerks also had an Association. The amalgamation of this body with the Second Division Clerks in 1920 created the Association of Executive Officers.

The Society of Civil Servants eventually was open to all above the Clerical grade; its work, however, was largely on a social basis, including dinners, dances and occasional meetings.

Customs and Excise officers organised rather earlier than this on a departmental basis, and then, in 1920, all the departmental classes in the Customs and Excise federated in a body for local Whitley purposes.

An Admiralty Staff Conference claimed the right of freedom of association in 1918-19. This was conceded by Mr. Austen Chamberlain when First Lord of the Admiralty, and a number of Associations were formed on a departmental basis for the purpose of representing the staffs in the Admiralty Staff Conference. The

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most important of these, perhaps, was the Admiralty Senior Clerks' Association, which catered for all Super-Clerical and Executive Officers in that Department.

Professional and technical classes organised departmentally from about 1917. The Institute of Professional Civil Servants being established in 1919 to form grade and class organisations for professional and technical classes throughout the Service.

All the bodies named grouped themselves loosely in the Civil Service Federation until 1916, when a violent disagreement led to a breakaway and the formation of the Civil Service Alliance, which was comprised mainly of the Assistant Clerks, Second Division Clerks and Customs and Excise Officers.

The creation of the National Whitley Council in 1919-20, and the joint negotiations on the scheme of reorganisation of the Civil Service classes led to the termination of the Federation and the Alliance as separate entities, and to the inception of the Civil Service Confederation.

Meanwhile many other departmental and grade associations were formed, until to-day there are nearly 300 of them, and the Confederation embraces 56 separate and autonomous organisations.

Included in this number are several departmental classes of Clerical and Supervisory status in the Ministry of Health, Defence Departments, Ministry of Labour, Inland Revenue and Customs and Excise Department.

Extensions in forms of taxation in recent years have brought a large increase of staff in the Revenue Department. Surveyors' clerks in 1890 petitioned the Board of Inland Revenue about pay. The reply described their petition and reflections on the competence of officials as impertinent. They were told that if they were dissatisfied with the weekly wages which the Surveyor of Taxes, who employed them, was authorised to pay, it was open to all of them to give one week's notice to him, and to seek employment elsewhere. Out of such beginnings the Association of Officers of Taxes grew.

These Supervisory and Clerical grades amalgamated with the Collectors and Revenue Clerks in 1936 to form the Inland Revenue Staff Federation.

Customs and Excise retain their departmental organisation as a Federation, with their grouped membership included in the Civil Service Confederation.

During the war the influx of temporary staff led to the creation of several separate associations, which formed a Federation of Temporary Civil Servants (men and women).

This body functioned for a few years as a constituent of the National Whitley Council until it became moribund in 1925 owing

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to the discharge of temporary workers, and the absorption of some of them into the establishments and into other staff associations.

Another Association was formed, which still exists, to cater for what has been advocated as the separate and distinct interests of ex-Service Civil Servants. This Association operates, in the main, independent of other Civil Service and Departmental organisations.

Except in the Post Office, the recruitment of Civil Service women into the Associations was practically negligible in pre-war days, although there were some women employed as far back at 1861. The employment as temporaries and the development of new Ministries have, by now, added considerably to their numbers; their trade union requirements being attended to by several Associations.

The origin and growth of the Civil Service Clerical Association presents an interesting and stimulating study in the amalgamation of small bodies of Civil Servants into one active and influential union. It began as an Association in 1902 covering only one grade, the Assistant Clerks. Its line of development has been from a grade organisation to one covering many grades. Membership in 1914 was 2,837, to-day it is nearly 44,000.

After the war the Clerical Officers' Association, as it was then called, arranged amalgamation with the Post Office Engineering Clerical Assistants. Then joined departmental classes connected with the Ministry of Health, Prisons, Museums, etc. A further stage was marked when the Writing Assistants came in. They were followed by the Typists and the Sorting Assistants.

Amalgamation with the Civil Service Union comprising Admiralty Dockyard Staff and the attachment of seven or eight small Associations of War Office Out-stations Staff have brought the Civil Service Clerical Association to its present strong position as the second largest union in the Civil Service.

Another important amalgamation was that of the Executive Officers' Association and the Society of Civil Servants, retaining the title of the latter. Having to-day a membership of 9,000, the Society caters very effectively for a wide range of Civil Servants who have supervisory and executive responsibility.

### *The Post Office Movement*

Trade unionism in the Post Office dates back about half a century. The Postal Telegraph Clerks' Association was formed in 1881, the United Kingdom Postal Clerks' Association in 1887. The Fawcett Association of London Sorters in 1890, and the Postmen's Federation in 1891. There had been considerable agitation earlier, going back to 1855, but there was no permanent union. Early

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meetings and committees of protest dealt with low wages and long hours, the grievance of Sunday labour (objected to largely on religious grounds) and to the introduction of lower paid labour to do sorting and other work formerly done by a more highly paid class. This was an outcome of the growth of the Post Office after Penny Post in 1840 and the Report on the Post Office of 1854.

Official recognition of Associations came slowly, the first was made in 1899 when the Duke of Norfolk, as Postmaster-General, expressed readiness to consider and discuss representations brought by the Postmen's Federation or other body, provided they were made through the usual official channels and by officers directly concerned, *i.e.*, no representations could be received from one person on behalf of another unless the interests of both were substantially identical.

In 1902-3 Mr. Austen Chamberlain made recognition more elastic by allowing memorials to be sent him direct, and he accepted representations from the Postmen's Federation signed by its Secretary, who was not in the Service. In 1906 Mr. Sydney Buxton announced that he was prepared "frankly to recognise any duly constituted association or federation of Postal Servants," and was willing to receive representations "relating to the Service as a whole, or on matters affecting the class or classes of servants of which the association was representative."

Post Office Associations were very active, they exercised considerable agitation leading to the appointment of committees of inquiry. Working separately, and jointly on common questions, they were persistent, and while there were many disappointments and progress was slow, they contributed much to the building up of a sound movement. These Associations, together with those representing the Post Office Engineering Staff, Scale-payment Sub-Postmasters, and some small bodies, engaged in much publicity of grievances individually and through their National Joint Committee; the whole joining wholeheartedly in every wider movement that was made in the Civil Service.

Supervising grades in the Post Office had their separate Associations, which to-day are linked together in a Federation of Supervising Officers.

Amalgamations and steady progress have brought the well-organised Post Office Engineering Union to a membership to-day of over 25,000, making it the third largest in the Service.

1920 saw the amalgamation of the Postal Telegraph Clerks' Association and United Kingdom Clerks' Association members with those of the Fawcett Association, Postmen's Federation and smaller bodies, and the creation thereby of the Union of Post Office Workers. This was a great achievement, because although there had been much

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joint operation through the National Joint Committee there had been several unhappy disagreements and conflicts of grade interests. Discussion of such matters within the single organisation has proved most beneficial in producing unity of purpose, co-operation and good fellowship. May I exclude myself when I say that in its seventeen years of history the Union has secured for its members many valuable changes in pay and general conditions, and also in a close study of Post Office business has made helpful contributions towards the solution of many Service problems.

It has established for Post Office workers a prominent place in the industrial world, and a prestige of high standard as the largest Union in the Civil Service with over 113,000 members; it has assisted readily, substantially and effectively in the various movements which have, in its time, concerned the whole of the Civil Service.

The new headquarters of the Union, now in course of erection, will be numbered among the best-equipped trade union offices in the world.

### *Restrictions*

Although progress has been made in several directions Civil Servants are still severely handicapped by the restrictions imposed upon them in regard to political matters and affiliation of their Unions to other bodies.

Whatever may be said in favour of the silent neutrality of highly placed Civil Servants or others who are in contact with Ministers responsible to Parliament in the administration of national affairs, it surely cannot be held to-day that the whole of the Service, or even more than a small part of it, is in that position. Old-time contention that a Civil Servant must of necessity accept the restrictions on his civil liberty laid down in staff rules as a condition of service, has never honestly and openly met the claim that the Civil Servant, as a citizen and taxpayer, has personal responsibilities as such, and should be free to express his views concerning them. Trade Union advocacy of this claim has been eloquent for many years and in many places, including the House of Commons itself, without avail.

The former attachment of Civil Service Trade Unions to the Trades Union Congress and other bodies for economic and other considerations has been of good service. Parliamentary representation by ex-Civil Servants also provided a very effective medium of expression of the workers' point of view in the House of Commons on questions of interest and concern to the Civil Servant.

It was thought that the report of a Committee which considered the question of civil rights about 1924 and which suggested modifications would be accepted, but following the industrial stoppage of 1926

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the position was considerably worsened by the Trade Disputes and Trade Unions Act, 1927. Clause 5 of the Act was intended as a penalty for an alleged offence, which, I suggest, was in the minds only of anti-trade unionists. However, a piece of legislation was added to the Statute Book which was not only unprecedented but which I submit was most unjustifiably repressive and alien to our national idea of freedom of thought and action. To affiliate to the Trades Union Congress was not sharing with the State a dual responsibility. Every Union affiliated is autonomous and free to act according to its own rules. Civil Service Trade Unions held to theirs at that time, as they had done before then.

I feel that Civil Service Trade Unionism should continue to aim at the repeal of Clause 5 of that Act, so that the Unions and the individual Civil Servant can act openly and healthily like other citizens. I share with a distinguished colleague, the Editor of *The Post*, his view that "The right to fashion ideals and to work for them is the very essence of democracy. Anything which denies that right or cripples that work is socially bad."

### Whitleyism

Proposals in 1918-19 by a representative Committee presided over by the late Mr. Speaker Whitley were received with criticisms which indicated strong differences of opinion regarding them among people to whom they were intended to be applied. The report of the Committee was suspect in some Trade Union quarters as being likely to undermine the independence and combative policy of Trade Unions in many spheres, particularly where it was held that the employer was the common enemy of the working class. There can, however, I submit, be little objection to the statement that divisions between employers and employees were not solely the creation of the latter.

It was recognised fairly generally in the late post-war years that something would have to be done if relations were to be improved and maintained on a reasonably satisfactory basis. Workers returning from the war felt that they had established their own indispensability in industry, and indeed in national affairs generally, and that in a new industrial era they were entitled to a better place than that given to them in pre-war days.

The appointment of the Committee had therefore profound significance. It is here interesting to remember that one of its secretaries was Mr. H. J. Wilson, who is our respected chairman of to-night.

The Committee itself recognised that there was a serious problem to face, and that pre-war ideas of domination by an employing class

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required considerable readjustment, to express it moderately, in the light of the events and repercussions then so vividly before their eyes.

The terms of reference to the Committee, I think, are clear confirmation of this statement, they were:—

1. To make and consider suggestions for securing a permanent improvement in the relations between employers and workmen.

2. To recommend means for securing that industrial conditions affecting the relations between employers and workmen shall be systematically reviewed by those concerned with a view to improving conditions in the future.

With the blessing of Parliament the report went forth to the industrial world. Consultations and conferences were fashionable and there was much talk about good will. Many schemes were devised, applicable to varied industries.

Although some of the Trade Unions did not find satisfaction in their experimental working of the Industrial Councils which were then established, I think that a substantial leavening of the Trade Union movement took place; and while to-day we may not be able to point to a wide operation of the first model of a Whitley Council, the spirit of it has found expression in many other ways.

To the Civil Service and particularly in the Post Office, the prospect of a closer touch with Treasury officials and heads of departments; and a fuller recognition of Unions and Union representatives unfolded most attractive avenues of progress.

It was felt that long-range operations would be superseded by close-up contacts which would be informative and good for the souls of administrators; that they would be enabled the better to appreciate the qualities of their Staff, the sincerity of the Trade Unions and the clearer understanding of their aims and aspirations.

When, subsequently, the Chancellor of the Exchequer, Sir Austen Chamberlain, referred the question of applying Whitley principles to the Civil Service to a Committee which was presided over by Sir Thomas Heath, there were great expectations which fell to dismay when the Committee recommended the creation of Councils with only advisory capacity.

To the credit of Sir Austen Chamberlain, be it said, he realised that the Associations were on strong ground in demanding a more dignified position. That if they were expected to send their representatives with authority, they should meet Treasury and Departmental chiefs with powers to reach agreement.

Consideration of the constitution of the National Whitley Council proceeded forthwith and interesting and stimulating discussions took place.

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Many progressive ideas were incorporated in the new constitution and its "round the table spirit" was commended.

We might pause here to reflect that Sir Austen Chamberlain, who has very recently passed away, figures prominently in our Service history as one who had made generous contributions to a further recognition of our Trade Unionism.

In the preparation of the model form of constitution for Departmental Councils the Staff Side come against the formidable barrier of the responsibility of the Head of a Department.

Any ideas which Associations may have had of being able to enter into a fuller appreciation of departmental policy or of several other questions of great concern to individual members, received a severe check. Discussions on this matter were warm and prolonged but the Heads did not relax in their opposition, and rigidity in regard to managerial control was maintained.

Faith in a Civil Service Whitley system was somewhat weakened as contrasted with the earlier anticipations, but compared with the opportunities available prior to its inception I think the agreements to establish National and Departmental Councils registered a great advance in regard to Staff representation and Trade Unionism in the Service.

Rapid developments followed, enabling such widespread questions as the Cost-of-Living Bonus Scheme and the Reorganisation of the Civil Service Staff to be dealt with immediately.

In many of the Departments movement was slower because of the formation of new Societies. In the Post Office strong staff organisations were ready for immediate action. The Union of Post Office Workers being in the front with its 1920 wage claim embracing many grades, whose views had first to be harmonised. This was done successfully, if hurriedly, and when the joint discussions took place they were attended by a representative of the Treasury.

In this case, as for many reasons considered by P.O. Associations to be desirable, wage issues were represented by the Union direct, but the 1920 joint wage committee was officially recognised as being formed on the Whitley model. The Treasury representative was welcomed by the Union, not only in this sense but also that he was available to have at first hand the views of the Staff as to the need for redress of their long-standing grievances on the wage question.

There have been many negotiations of a similar nature in the various Departments since that time. Whitleyism has been conducted in good faith and with good will by both sides with a goodly measure of success, notwithstanding the fact that disappointments have come to the Staff from time to time. Staff interests have throughout been

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well served by the representatives of their Associations on the Staff Sides. The Official Side has loyally kept to the constitutions in having men and women of authority to meet Union and Staff Side representatives. Discussions have been free and frank, and as I indicate, not unfruitful.

There have been occasions when I have felt justified in criticising the Official Side for their shortcomings and also in supporting others who had experienced similar difficulties. I am, however, not unmindful of defects of my own, which no doubt were obvious to the Official Side.

With the growing strength of the Unions and the operation of Whitleyism, access to Heads of Departments and others has been facilitated, in my opinion, most commendably.

My own experience in this respect has been happy, that in my position as Union General Secretary or as Vice-Chairman of a Departmental Whitley Council or as a member of the National Whitley Council, I have invariably been received readily and courteously. I have never been refused a hearing or a discussion by any responsible official. In regard to procedure, perhaps the full Council meeting with its very formal discussion and equally formal reports, usually couched briefly and in stilted language, does not adequately convey to reading members of the Unions a full appreciation of the functions of a Council; however, in my opinion, the best Whitley work is done by the Committees, where discussions are freer and necessary documents more readily available.

Office Committees, whilst very useful in their operation of the local constitution and such advantages as they afford for joint meetings representative of grades or interests concerned, have the serious handicap that with the representative official head of the Committee having only restricted power, his immediate chief holding authority is not available so readily on questions suggesting the desirability of his presence as I think would be good for the Department and the staff concerned.

The spirit of the "absent landlord" is ever in the background of discussions on these bodies, which unfortunately detracts from their interest and popularity.

Civil Service Trade Unions of to-day may be large enough and sufficiently influential to operate without Whitley Councils, but I think they have additional opportunity and strength afforded by the Whitley system. In its absence I feel sure the aim would be to create such other machinery as would assist in maintaining the cohesion necessary under existing circumstances with so many separate organisations.

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Further amalgamations will probably reduce such defect, but even so, I suggest that similar facilities to those now available for free joint discussion will be essential, even allowing for the disagreements and disappointments which are common not only to the work of Trade Unions but also to the human factor in business.

The maintenance of active Whitleyism and its positive advance will depend very largely on the strength and representative power of the Trade Unions.

### *The Unions of the Future*

Trade Unionism in the Civil Service will, I feel sure, continue to flourish. Many grievances remain for settlement. New staff proposals, new services and other changes will bring new problems.

No change, administrative or even mechanical, can be without some direct or indirect effect upon the staff, consequently the Unions must ever be ready and able to help their members.

Antagonistic claims by the staffs as compared with the claims of the public as users of the Services, partially in revenue-earning departments, will require constant attention. If official replies refer to the rights of the taxpayer, the demands of the latter cannot justly, I submit, be considered apart from the legitimate aspirations of the Trade Unionists who seek more leisure, a better standard of living, or on whose shoulders is placed an increasing burden of labour or responsibility.

Trade Unions in the Service to-day have a wide range of activities. In addition to their main work of negotiating about wages and conditions, they deal with individual cases, accidents, workmen's compensation, National Health approved societies, benevolent societies; and they are active in other fields: education work, weekend schools, holiday camps, building societies, sports clubs, etc. They have also raised large sums of money for various relief funds. Many are well equipped, some having their experts in their own Research and Statistical Departments and Medical Departments. They give much time and thought to the careful and accurate preparation of evidence in support of their claims and are particular that these claims should have the support of skilful advocates. There is little doubt that their functions will continue to expand.

Civil Service Trade Unionism has thus become an instrument of considerable value to its members.

Development has not been entirely one-sided. The Official Side has also become equipped materially and in skill of personnel to contend with the pertinacity of the Trade Union and its officials. The blunt refusal of years ago has given place to a much more

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expansively expressed negative. Even so, with great respect to the quality of the Official Side, I feel it can be claimed that Trade Unionism has secured from the Official Side a much fuller examination of questions and clearer arguments concerning them than in pre-war days. The institution of the Industrial Court has also to be remembered.

The cynic might say that the Trade Unions have in effect created a cleverer opposition; the reply must be that they have produced for their members very many improvements in pay and conditions, that they have indeed established a position from which they can advance to further conquest.

But the staff should bear in mind that more cohesion and more concentration of thought and purpose are essential to future progress. In this connection I think it is regrettable that Ministers have not been unwilling to give official recognition to dissident members in their newly created and badly equipped associations, numerically and materially, even though secession may be due to dissatisfaction arising from Trade Union agreements with the Official Side. I feel it is not too much to say here that it is not to the disadvantage of the Official Side to conclude satisfactory agreements solely with the Union having the main recognition and speaking with the most authority.

### *Conclusion*

Much labour and expense have been contributed to the building of the Unions. They have men and women working nationally, in district areas and locally with enthusiasm and with intelligent application to the needs and aspirations of their constituents. While no official movement can be made without taking them into account, the Unions on their part will be mindful of the importance of retaining the popularity of their members as public servants; therefore, the responsibility of the Trade Unions as to (1) the member, and (2) the Service, is bound to increase. The staff will benefit, but the State will not suffer; on the contrary, the Trade Unions will continue to regard the maintenance of a healthy service, full of zeal and efficiency, as a sacred trust.

# The Use of the Interview in Recruitment and Promotion

By G. H. STUART-BUNNING, O.B.E.

If the plan of the Programme Committee of the I.P.A. went a little wrong at Cambridge in July it was not the fault of the Committee. The plan was admirable. Mrs. Mary Hamilton and Mr. F. Steadman, two experienced selectionists, were to praise the system. Mrs. Raphael of the National Institute of Industrial Psychology was to give the philosophical and scientific side. Miss Robertson was to tell us how it worked in a great company, and finally Mr. Houghton, as a member of the Staff Side, which opposes the selection method, was expected to put up the arguments against it. So far so good, but Mrs. Hamilton could not attend and Miss Robertson's interesting paper turned out to have little relevance to the Civil Service. These were minor misfortunes. Where the Committee fell down was with Mr. Houghton. He blossomed out as a full-blooded supporter of selection, and turned a little heavy-footed sarcasm on the Staff Side, which does not agree with him. The first paragraphs of his paper are really noble examples of *non sequitur*, for the gist of them is that as kitchenmaids are chosen by selection the method must be right for Civil Servants. There is a certain conclusion of Master Euclid which need not be quoted.

The really surprising thing of all the papers was that they produced no evidence that selection in the special circumstances of the Civil Service is an improvement on the present method. There was plenty of statement and much emphasis, but no evidence. The only thing which can be produced as resembling evidence is the evidence of Sir Russell Scott, who was in favour of retaining the selection system, but when questioned as to the faith which was in him, broke down lamentably. The system had been in operation ten years, but that was too short a period to form a conclusion. How long does Sir Russell want? Apparently a century or so, when he will be in the happy position of having no responsibility. On actual experience he could not say that it had made any conspicuous difference to the personnel, and he could not say that one sort of recruit

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was greatly better or worse than another. Mr. Houghton was fair enough to quote these sayings, but did not perceive that they entirely destroyed Sir Russell's main statement. Mr. (now Sir Roderic) Meiklejohn said, and Mr. Houghton agreed with him, that there are dozens of things you can find out about a young man in a quarter of an hour. Mr. Houghton seems to have forgotten his elementary arithmetic. After all, there are only fifteen minutes in a quarter of an hour, and it seems to be agreed that from three to five minutes must be occupied in putting the candidate at his ease; but take the full period! How are you going to get "dozens of things" in so short a time? What you do get is usually a single impression, which may be right or wrong.

We can all agree with Mr. Houghton that regard must be had to getting the best possible candidates for the Civil Service, and in fact that is the object of the present system. When, however, he says that Interview Boards are drawn from widely different sources it is fair to ask him for evidence, and he produces none. The Interview Boards in the Civil Service seem to be drawn from one source, the higher Civil Service official, with an occasional mixture of similar people from outside. Leaving Mr. Houghton for a moment let me turn to Mrs. Hamilton, who writes that she heard "with stupefaction" an eminent member of the Civil Service Commission say that admission to the Administrative Grade might well be made on the basis of an interview alone. It is astonishing that so able a woman as Mrs. Hamilton should not have realised that eminent people can say the silliest things, for when she recovered from her stupefaction she appears to have been impressed. Yet when the pronouncement is submitted to common sense it simply means that the eminent, etc., believed that if appointments were left to himself and a few cronies all would be well in Civil Service Heaven. Is that a sensible utterance?

When she says that voice, looks, manner, vitality, capacity of disinterested service and power to guide others are all important, we can agree, but how can these things be assessed in ten or fifteen minutes? I know I cannot do it, but that proves nothing. I may be "remote, unfriended, melancholy, slow," but I modestly think there are a lot of people like me, and some of them get on to Selection Committees. Then she says, "a headache on the morning is almost as fatal to the candidate's papers as to his interview chances." There is much virtue in an almost, but even with that qualification I do not agree. The written paper will not look into the candidate's biliary eyes and say, "Hang over. This man goes to night clubs." An interviewer may, and after all it might be only Aunt Sarah's home-made pork pie.

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Mrs. Hamilton in a later passage gives the whole case for the interview away. She agrees that from ten to fifteen minutes is necessary, and says that when thirty-odd young men have been dealt with, it is difficult to keep up a vivid interest in human material. It is; but that is not the point. Thirty young men at ten minutes each, and I will not be cruel enough to make it fifteen, would mean five hours. How many selection committees sit for five hours? I have never met one, and certainly not one which sat for seven and a-half hours, which would give fifteen minutes a candidate—and that to Mrs. Hamilton seems a fair time so as to get the candidate at his ease. Again, Mrs. Hamilton gives her case away. She says that on one Board on which she served the members were so aware of the general feeling that they would favour the Public-School man, that they were apt to prefer a Midland to an Oxford accent. I need not condemn that particular Board; Mrs. Hamilton has done it for me.

Mr. Houghton's praise of the system came mainly from the fact that he agreed with the Board's markings. This is very important, but not quite conclusive. Suppose he had disagreed, would that have proved the Board was wrong? Mr. Houghton would say "yes," but that would not quite end the matter. His assertion that full-time secretaries of Civil Service Associations are appointed after interview is nonsense. In all my forty-five years' association with these unions I have only known two instances. One was a failure, and in the other the successful candidate resigned for a commercial post. Union secretaries are almost always appointed by election, which may be a good or bad system, but is not a system of selection by committee.

Let me deal with the debate. One speaker in favour of interview pointed out that all the objections to it could be urged against the written examination. As a matter of fact, they cannot, for the principal objection, favouritism, does not and cannot appear in the latter. In conversation later, I put it to him that what he had actually argued was that if you put two faulty systems together you get perfection, and he was good enough to agree that there was something in the criticism. If I may say so, there is. You first of all expose the candidate to the dangers of the written examination, and then to the same dangers in the oral. That seems to me neither common sense nor humanity.

The most important, and in many ways the most dangerous, speech was from a supporter of the interview from the Local Government's side. He was so satisfied with himself. For years he had appointed people, and as soon as a man walked in he could tell by his walk, his manner and his looks whether he was efficient, or cruel, or anything else. His peroration was that he had never gone wrong in an appointment. How did he know?

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What he did know was that he had been satisfied with his appointments, but it is easy to be satisfied with one's own choice, especially when it may be necessary to defend it before a committee. He presumably never saw the rejected candidates any more in his life. How could he say, with certainty, that they were worse than the selected ones.

An American speaker denounced that speech as nonsense, especially on the point of evident charm of manner, and I may enlarge it. "What is charm?" says Maggie in one of Barrie's plays, and the answer is, something which may delude you. Poisoners, share pushers and confidence men rely on their charm. The Borgias, the Marquise de Brinvilliers, and to come to fairly recent times, Wainwright, who poisoned a woman for no other reason than that her legs displeased his aesthetic sense, were all good looking, fascinating people, with any amount of charm.

It is not necessary to add anything more on this point of the subject. Never did we get a sustained argument in favour of selection. All we got was, "Leave it to me and all will be well." Let me try and make clear my own attitude to the interview. I do not presume to say much about it in respect of private enterprise. What I have seen of it does not leave me with much admiration, as it is usually a hit-or-miss affair, but it is due to Mrs. Raphael and her friends to say that they are introducing some system and method into the interview, and it may be agreed that any system is better than none. What does disturb me about Mrs. Raphael is that I do not see where the worker comes in. On the face of it an employer offers £300 a year for a job and Mrs. Raphael does her best to find him a worker who should be paid £350, but there is nothing to show that he gets it.

If I were to decide by the speeches made at Cambridge in favour of the interview for Local Government posts I should say the results must be appalling, but it is the fact that the Local Government services still go on, and secondly Mr. Steadman's paper does set out some arguments in its favour, though he admits the "danger of a well-cut suit and a glib tongue"; and in another place says "it is asking much of the average councillor to keep a balanced judgment of Mr. "A" down to Mr. "Z," It is! It would be asking a good deal of the Angel Gabriel. Then he points out that it is necessary to have a scientific method to prevent a candidate being appointed on a minority vote, but on his own showing this must actually happen in the L.C.C. There, a committee of three interview candidates who have already passed a written examination, but the committee must be unanimous to reject a candidate whose place in the examination would otherwise entitled him to an appointment. It simply

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must occur that on occasion two members will say "nay" and one member "yea," but the candidate gets the job all the same.

Mr. Steadman said truly that his paper dealt more with recruitment than the interview, but he was the only writer or speaker to set out any argument. The remainder seemed to say, "We feel in our bones that the interview is right." Well, the only thing one can be certain of in one's bones is rheumatism, and that is an evil precedent.

Coming to the Civil Service, the interview with regard to promotion is one thing, with regard to recruitment quite another. So far as the first promotion is concerned, the interview often serves a useful and even valuable service. There is usually a number of candidates with equal records and it is of service to see them, but even so, it is sometimes a case of tossing a coin as to which is the best. I do not suggest that the chairman does anything so vulgar as to take a "bun" penny from his pocket and flip it in the air, but I am quite sure he has sometimes to use a mental penny and feel very uncertain as to whether it has come down on the right side. For second and third promotion it is doubtful whether the interview is of any value, for candidates for further promotion have a happy knack of selecting themselves.

When we come to recruitment the first question is to ask what we are expected to do. We are asked to graft on to the written examination selection by interview which may radically alter the result of the first examination, and indeed has no *raison d'être* unless it does. No one suggests that the written examination is a perfect method. It was devised by mortal men and so it cannot be, but it is interesting to see who were those men. Elcho, Macaulay, Jowett of Balliol, Stafford Northcote, George Trevelyan (Trollope's Sir Gregory Hardlines) and W. E. Gladstone, all gave their services and they can stand up against even the anonymous eminent Scot mentioned by Mrs. Hamilton, to whom, by the way, most of us could give a habitation and a name.

Occasionally there is a gross failure. I well remember an official who passed first, and brilliantly first, in the Civil Service Examination, but it was the only brilliant thing he ever did, and his retirement was by no means an unmixed evil for the Service. The men referred to desired to secure purity in appointment and efficient, honest service. And they did it. I am neither insular nor conservative in writing that our Civil Service is the envy of the world, for in many lands I have discussed the matter, and even in Scandinavian countries where the services are very good have been told that ours is a model. The use of the word conservative reminds me that when one opposes recruitment by selection one is apt to be met by polite burbling about

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new times requiring new methods and the danger of being old fashioned. It is not I who am old fashioned, but they. The method of appointment by selection is thousands of years old, and leaving out the inevitable and to a great extent the justifiable claim of the Chinese to have invented every improvement in the world, the written examination for recruitment in this country at all events has less than a century behind it, and somewhat longer in Holland. Clearly it is they who are old fashioned and wish to revert to a method which failed utterly. Of course they retort that things which happened a century ago cannot happen now, and by a happy combination of the written with the interview examination you get the best people by the first, and by the second those who are better than the best. I ventured to put a point at Cambridge which nobody thought worth while answering, but I think it worth repetition. A candidate comes out first in the written and is suitably congratulated by his sisters, his cousins and his aunts, but when he goes up for his oral he may even be rejected. Suppose, however, he is selected but in the sixth place instead of the first. Will not such a man have a feeling of injustice, and can there be a worse start for a recruit?

No doubt the perfect selection committee would select the perfect candidate. There is no such thing as a perfect selection committee. In my own experience it has come down to a "Can you spare the time old man" system without any regard to any other qualification. The fact is that an interview is much more a test of the interviewers than the interviewed. It is sheer nonsense to say that committees are not impressed by the bearing and appearance of candidates. We all are, and indeed those things form part of that elusive spirit called personality which we all think we recognise but can never define. I once sat on a committee to interview some would-be clerks. Two or three of these girls were made up with lipstick and painted nails. I do not like these things. One was scented, and I was hopelessly prejudiced against her, mainly because I have a physical aversion to strong odours, even if they are pleasant ones. But I am bound to admit these are externals, and I may easily have voted against an extremely good clerk. If I am told that all I have proved is that I am not fit to sit on a selection committee I shall not quarrel. I shall mildly reply that other folk have different dislikes which colour their judgments.

There is one valuable aspect of the interview, and one only, that is it does educate the interviewers, and some of them need it. Once at a deputation to a Postmaster-General I told him that some of his principal officers were apparently projected from their suburban homes to their desks in the morning and projected back in the evening, without ever knowing there was a world between. He was

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angry, but some time later I met him at a dinner and asked why he was so peeved. He told me that my remark was much too near the truth to be pleasant. When one talks to interviewers they are positively ecstatic as to the interest of the work, and of course it is interesting. So is vivisection, but quite a few intelligent people hold that it is cruel and unnecessary, and interviews are just mental vivisection for the candidate. None of these people can point to any particular good the system has done. The Service is not cleaner or less corrupt or more efficient than it was, and this on the showing of Sir Russell Scott and Sir Roderic Meiklejohn. All they can say is "wait and see," which is very much like those quack-medicine advertisements which tell you that you must persevere and all will be well—"It's the little daily dose which does it." It may fairly and seriously be asked whether it is worth while persevering with a scheme which, after years of trial involving time, labour and the expenditure of the taxpayers' money, has produced nothing which its protagonists can adduce as evidence, reason or even excuse.

That the staff dislike the system is evident despite Mr. Houghton; the general public know little of it, but there is some evidence of its mistrust, while finally it opens the gates to favouritism and corruption. Discussing this recently with an eminent civil servant (what a lot of eminent people there seem to be) he indignantly reminded me of the great traditions of the Service. Traditions, my grandmother! The purity and efficiency of the Civil Service begin with Pitt's Committees of 1797, and the reforms were not complete till 1855 and, in some cases, later. The Civil Service prior to then was both corrupt and inefficient. The Civil Service Commissioners of 1855 and later, with all the opinions of the great men I have cited and the force of public opinion, had to make a great fight, in one famous case having to withstand the Prime Minister, Lord Palmerston, but, they were brave men and did it. I do not want to see their work nibbled away.

I am quite frankly afraid of the politician, and I exempt no party from this fear, National, Conservative, Liberal, Labour, Socialist, United Front, anything you will. They all contain elements which for one reason or another will try to influence appointments. They do it now, but the written examination renders them powerless; the interview system is another matter. It is one thing to say to one of these fellows, "I hope John gets through the examination, but that is all I do," and quite another to answer him when he comes and says, "John is coming up for his interview to-morrow; be a sport and do the best you can for him." Luckily the politician does not seem to have discovered this new field as yet, but he will, for there is no avenue of corruption the politician of the worst class cannot find or have found for him.

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To sum up, the interview before the written examination can be justified, the interview after, cannot. No evidence of its value has been produced, but a good deal of evidence as to mistrust, and if I am challenged to make any practical suggestions for improvement they would be that perhaps the subjects require more overhauling and that the power of dismissal in the probationary period should be less sparingly used.

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### Studies in the Development of Edinburgh

No. III Series. Public Utilities operating in the City. Institute of Public Administration: Edinburgh and East of Scotland Group.

THIS is another interesting booklet of after-luncheon talks issued by this Group. The present volume contains two addresses on transport, one on rail, road and air, the other on shipping, harbours, etc.; two on communications, on posts and telegraphs and on telephones and radio; one on light, heat, power and water; and an opening address prepared by Sir Andrew Grierson, but not delivered by him because death intervened, an instructive review by one immersed in his subject and in the later developments of which he himself played no small part, a review not garrulous in reminiscences but terse and enlightening in its firm tracing of significant happenings. It is a pleasing reminder of Sir Andrew's quiet and even mind, full of ripe wisdom.

I hope the Group will continue this worthy series. The addresses in the present volume are necessarily largely descriptive. It would be interesting to follow them up by a series dealing in concise and reasoned manner with some the major problems in these and other fields of government, local and central.

It is to be earnestly desired, too, that other Groups will follow the example of Edinburgh. There is no better way of bringing home to the ordinary man the significance of this, to him, often vague task of public administration, and, still more important for those in the public service, no better way of genuine instruction and enlightenment than to deal with issues and subjects in their local application, to town or county or region.

I. G. G.

### British Experiments in Public Ownership and Control.

By TERENCE H. O'BRIEN. 304 pages. (George Allen & Unwin, Ltd.) 10s. 6d. net.

THIS survey of the Central Electricity Board, the B.B.C., and the London Passenger Transport Board is one of a number of studies under a Research Scheme promoted by the Institute of Public Administration. This fact, as well as its conspicuous merits, assures

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Mr. O'Brien's work of a sympathetic reception by readers of this Journal.

Mr. O'Brien has dealt, in fuller detail than previous writers, with three public concerns, or Corporations, as he prefers to call them, which he has selected for examination, and he has had much inside information put at his disposal. The results are well arranged and supplement in a valuable way the wider collection of studies recently issued by the same publishers and noticed in these columns, under Dr. Robson's editorship (*Public Enterprise: Experiments in Social Ownership and Control in Great Britain*).

The scheme of the book is to examine each undertaking under twelve headings:—Origin, function, economic and financial status, size and composition of Board, operation, the responsible minister, the rôle of Parliament, and a group of internal problems, namely, the relations between the Board and the management, control and recruitment of staff, area, advisory bodies and public relations.

It is unnecessary to comment at length on the descriptive side of Mr. O'Brien's book, which provides a much needed text-book and work of reference. Like some other recent writers, he disclaims any attempt to deal with theory or fundamental questions. No doubt it is true that more experience of the working of existing examples of the public concern is required before final judgments can be pronounced, and moreover, he remarks, truly enough, that the present organisation of these three vital services is not due to any clearly conceived theory held by Government or by Parliament as to the abstract or correct principles on which such services should be organised in a modern State. Still less can it be said to be due to some deliberate preference for public ownership.

The form of semi-autonomous organisation selected in each case was influenced, negatively, by a widely shared desire to stop short of State ownership and management and, positively, by an equally widespread recognition that "economic wastefulness and inadequate co-ordination of services" could only be overcome by some extension of State-regulated monopoly. The actual solutions were shaped more by "accident and the spirit of compromise than any general Parliamentary faith in or appreciation of the working nature of this type of Institution."

But these are, surely, reasons for embarking upon, rather than abstaining from, a more comprehensive and more fundamental treatment of the many problems which the conception of the public concern solves or raises, and it is to be hoped that someone will soon take this task in hand.

In his short introduction and conclusion, and in those parts of his specialised chapters which deal with ministerial responsibility,

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the position of Parliament and the public relationships of the Boards, Mr. O'Brien says some interesting things on these more general aspects. (He is perhaps most critical in regard to present methods of appointing the Boards and upon their establishment technique.) Accepting Mr. Herbert Morrison's formulation of the object of creating a public concern, namely, to achieve "a combination of public ownership, public accountability and business management for public ends," Mr. O'Brien regards as crucial these two questions:—Can such an Institution, entrusted with a vital service, be effectively and permanently removed from direct political control? If so, can it evolve means of making itself effectively and continuously accountable to the public?

For his own part, he thinks it too early to say whether the semi-autonomous body is inherently superior to the orthodox method of State administration and harbours a doubt whether we, and other countries which have embarked upon similar experiments, have hit upon a new type of organisation of a superior character or whether we have merely made "isolated empirical responses to widely different sets of problems."

The public are now becoming used to these great public corporations. Ministerial interference has been kept at a minimum, but there is probably a salutary idea at the back of the minds of the Boards that, in the last resort, they may want a sympathetic defender in Parliament and that it behoves them to view their policy and actions in a wide public setting. Certainly Parliament has shown great restraint and a marked willingness to refrain from trying to re-exert in detail the control over its creatures which it has abandoned or suspended at their birth. In the case of the B.B.C. Mr. O'Brien thinks the fact that the Corporation derives its status from a Royal Charter and not an Act of Parliament makes this easier.

As regards the public, the Central Electricity Board, which is not in direct contact with individual consumers, has arranged a special and satisfactory consultative machinery with the wholesale side of the industry of which it forms so important a part. The London Passenger Board is, by nature of its business, sensitive to public demands and preferences, but is also, under a series of statutory devices, in touch with the local authorities, which in the matter of passenger transport are traditionally custodians of the interests of their citizens. The B.B.C., which is discussed at greater length than either of the other concerns, has a large number of Advisory Councils, of which Mr. O'Brien is not uncritical. He quotes with approval, a comment made upon the General Advisory Council created in 1935 to the effect that it consisted of the thirty most heavily occupied people in England (under the chairmanship of an Archbishop), and he

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suggests that a Central or National Advisory Council ought to be composed not of such persons but of "persons of the most assorted types, social environments and interests." He indicates the casts of "In Town To-night" as a suitable field of recruitment.

In the sphere of technical development, operation and business management generally, there is no reason to think that the public concerns hitherto created are failing or are likely to fail to cope with their problems, vast in scale as some of them may be.

Upon their relationship to Government, Parliament and people, the critics naturally and rightly have more to say. Effective accountability is the point to watch. But none of them finds it easy to point to definite defects of a serious character, and the general temper of public opinion and Parliament seems favourably disposed towards making a success of the public concerns, not merely because it avoids the admitted disadvantages of ordinary State administration, but because it offers a positive line of advance in modern organisation.

C. W. H.

## *Principles of Social Administration*

By T. S. SIMEY. (Oxford University Press. Humphrey Milford.) 10s.

In this book, Mr. Simey, who is Lecturer in Public Administration in the University of Liverpool, brings a critical and imaginative mind to bear on the problems of social administration in a democratic state. His purpose is to discover what principles apply to such administration, not to describe the social services, or even the administrative machinery connected with them. It should not be thought from this, however, that his book is a study merely of technical interest, with a limited range of application. As Mr. Simey well says: "The very scale of the social services ensures that an investigation of their administration must illuminate the general theory of the State, especially since so large a part of the energy of the modern society is absorbed in their maintenance. The objections to the extension of the functions of the State, in both economic and social fields, are based to a considerable extent on practical grounds; for instance, that it does not possess enough knowledge or enough organisation to undertake new work effectively or intelligently. Largely owing to the apparatus of social administration, society has become a far more self-conscious unity. It has been said that where it has knowledge it can act, but it will soon be apparent that the conditions of effective government are hard to satisfy in a representative democracy."

Two chapters are devoted to the discussion of the historic background, the first from 1834-1900 and the second from 1900-1936.

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From this survey, Mr. Simey debates the legislative and administrative principles which underlie the present system, and is particularly concerned with the argument for and against an increased local responsibility. He states in his preface that the writing of the book was started with, if any bias at all, a bias in favour of the central administration of the social services. The fact that the argument underlying the conclusions which he reaches has the general trend of a reasoned defence of the system of local government is due entirely to the operation of the compelling tendencies inherent in the subject-matter itself.

The need for coherence in the administration of the social services is emphasised. "It must be kept in mind that the only unifying factor in social administration is provided by the individual. This is the focal point of the social services. Administration must therefore be continuous; there must be no break within the services or between them. It is, for instance, an obvious absurdity that there should be no co-operation between the maternity and child-welfare service, the school medical service, and the National Health Insurance doctor. The accumulation of joint records relating to the medical history of the individual would have the immediate effect of laying bare the causes of ill-health, and of imposing an outside check on the efficiency of many of the services. The truth is that the social services are inseparably intertwined. The probation officer must co-operate, not only with the police, but also with the education authority, the public assistance and health departments, and he must also seek the aid on occasion of the mental hospitals, the housing authority, and the employment exchanges. The Unemployment Assistance Board must maintain a close collaboration with the Ministry of Labour, the Public Assistance, Housing, Maternity and Child Welfare, and other public authorities, not to speak of the whole range of voluntary associations such as the Poor Man's Lawyer, and the National Society for the Prevention of Cruelty to Children. The separation of the social services that has resulted from their distribution between a number of independent or semi-independent bodies has had a very harmful effect on their work. When all is said and done in the way of creating so-called scientific categories of assistance, such as health, education, and pensions, we are left confronting the indivisible individual, whose personality can never be properly assessed by a mere addition of separate opinions; however near the truth these categories may get, the whole truth can never be reached without a fusion of all the different approaches into one synthesis."

In three subsequent chapters, Mr. Simey deals with the complex partnership which has grown up between the central and local authorities and voluntary bodies. The vexed question of the alterna-

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tive methods of distribution of authority in a department by decentralization or by devolution, is cogently summarised, and the conclusion is reached that the strict application of the doctrine of ministerial responsibility results in the creation of an excessive degree of rigidity in the administrative system, making it impossible to achieve a correct measure of decentralization of authority within the department, and to attain the ideal form of social administration.

"What is required," says Mr. Simey, "is the preservation of local adaptability, combined with central control wherever there must be uniformity, together with mutual trust and co-ordinated action between the local officials. Unified direction should go hand in hand with decentralized administration; decentralized to maintain contact with the persons or bodies for whose benefit a service is provided, centralized to obtain consistent policy."

Mr. Simey's criticisms of the existing anomalies in the administration both of the Central Departments and of Local Authorities, are illuminating and constructive. Although contact between one department and another has in a few outstanding instances been established between the head offices in Whitehall, the author has been unable to discover the existence of any machinery whatever for local consultation between officers of such departments as the Ministry of Labour, the Ministry of Health, and the Board of Education. This leaning of the central departments towards what Mr. Simey calls "Ghettoism" may perhaps be ascribed to a desire on the part of the permanent official to limit his responsibilities and obtain, so far as possible, the clear definition of his duties by Act of Parliament and departmental regulations. Mr. Simey has some pertinent criticism of the administration of local authorities, which have the defects of their qualities. Local responsibility brings with it unevenness of service, and its vigour is much restricted by the spirit of compromise inseparable from committee work.

The author concludes that while centralized administration should be retained in respect of services in which the field of discretion is minimal, such as pensions and insurance, the medical benefits of the latter service should be linked with the local health services, and that the best way to do this would be to transfer them to local administration. To quote from his concluding chapter: "If decentralized and flexible administration is really desired, it is best to make the decision to remove authority from Whitehall as early as possible. The necessity for this need hardly be emphasised any farther. If there is any truth in the old French maxim, '*On gouverne de loin, mais on n'administre que de près*,' the merits of the semi-autonomous local authority are obvious. Devolution must, after all, give rise

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to a much more sensitive mechanism than mere departmental decentralization."

Mr. Simey suggests that the work of the education department could be linked with the juvenile employment; that the work of the Insurance Committee could be fused with that of the health authorities and that the Probation Service might well be transferred to local authorities. If this were done, integration as well as decentralization could be obtained and problems of co-ordination could be dealt with through the ordinary machinery of the local authority. While he advocates these transfers of functions from Whitehall to the provinces, Mr. Simey would strengthen central control by the appointment of General Inspectors of "local government," charged with the duty of co-ordinating the sectionalised interests of education, public assistance and other inspectors, the localised units of the central government being brought together in offices under unified control. The central department could thus be equipped, as was suggested in the report of the Scottish Health Services, both in legal powers and in organisation to inspire and guide the local authority at all stages and, if necessary, to initiate developments in the localities.

To all students of sociology and to all who are interested in the problems of government and national welfare, Mr. Simey's book should prove invaluable. A useful complement to Mr. Simey's book would be the factual survey contained in the P.E.P. report on the British Social Services. If these two books are read together, it is possible to obtain a synoptic view of most of the problems connected with the complex administration of our contemporary public social services.

C. KENT WRIGHT.

### The Public Social Services

By Sir GWILYM GIBBON, C.B., D.Sc. Read before the Royal Statistical Society, 24th May, 1937. *Journal of the Royal Statistical Society*, Vol. 100, Part IV. Price 7s. 6d. net; also, 1s. 6d. net, in pamphlet form.

READERS OF PUBLIC ADMINISTRATION do not need to be told that Sir Gwilym Gibbon speaks with a quite unusual authority on the Public Social Services. He has watched their growth—from £32,000,000 at the beginning of the century to £427,000,000 in 1934-35—and has had to deal with it in all its expansive and masterful complexity from day to day, and from parliament to parliament. This paper to the Royal Statistical Society may well become a students' *locus classicus*—unless, or better until, its author expands it into a book, a book that would be authoritative and welcome, and the more so in proportion to the room available for the deployment of both the knowledge and philosophy of its author.

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Sir Gwilym's paper is divided into two parts. In the first he deals with the Public Social Services as a whole, and in the second with them one by one. At the outset he has to point out that the official return of expenditure on the social services is a "hotchpotch . . . . . conceived in some confusion and controversy," which includes education but excludes libraries, includes maternity and child welfare but excludes the welfare of the blind. He examines the relative expenditures on the several services, and notes that they "are now determined largely by sectional pressures." He shows the increase both in the proportion of the money spent on the public social services which comes from central sources, and in the proportion of the national income which is spent on social services. He expresses doubt of the "fond belief that expenditure on the social services is repaid in improved efficiency." In the absence of adequate studies of the real incidence of the charges for social services, he attempts no more than the cautious judgment that "in recent years charges for social services have been of minor importance," as a burden on industry, "compared with other difficulties." He indicates the effect that probable population changes will have on the social services; discounts the proposal that there should be one central authority for the social services; emphasises the necessity both of constitutional checks upon "sentimental, sectional and electoral extravagance" in the social services and of constructive research in the fields of prevention; expresses scepticism of the extent to which monetary or public-works policies can prevent or reduce unemployment. All this and much more makes up Part I. If it is impossible in this brief notice of a most closely packed paper to indicate even the salient points of the survey of the several services in Part II, attention may be directed to one or two points of outstanding interest. Sir Gwilym finds little of substance in "the wild statements which have been made of the drift of industry southwards," and mainly nonsense in the claim that the technological changes of recent years have had any special historical character: he states a case for the retention in National Health Insurance of Approved Societies, despite the high mortality among such bodies: he draws attention to the serious questions raised by the post-war rise in expenditure on poor relief. But like Part I, Part II bristles with matters of importance.

There is one broad comment which future historians, searching for an explanation of current trends in social legislation and administration, may well make on Sir Gwilym Gibbon's illuminating paper. His fine and critical sense of public responsibility may seem to them to be rooted in the attitude of Senior and Chadwick and the makers of the now abandoned "new" Poor Law of 1834. "Unemployment," Sir Gwilym points out, "has a long history in this country,

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and we might have handled its recent problems more wisely if some of the abundant energy spent in telling governments what to do had been expended in more understanding of that history." The history of unemployment has never been written—those who have lived it are only now and slowly becoming articulate. The history of unemployment administration since 1834 is a cumulative demonstration of the narrowness of the ideas of 1834. Perhaps "the unpraised, unrewarded millions without whom statistics would be a bankrupt science, who are born, who marry, who die, who regularly lose so many umbrellas, post just so many unaddressed letters every year" deserve no other attitude, but it is doubtfully consistent with the outlook or the science of to-day.

H. L. BEALES.

### Report on British Social Services

A Survey of the existing Public Social Services in Great Britain, with proposals for future development. Pp. 210. (Political and Economic Planning, Queen Anne's Gate, London.) 7s. 6d. net (postage 6d. extra).

P.E.P. HAVE become well known for their reports, and this is the latest addition to their list. It covers (1) what are called in the report (not altogether happily) the constructive community services—education and public medical, blind welfare, mental health and employment services; (2) the social insurance services—health and unemployment insurances, contributory pensions and workmen's compensation; (3) social assistance services—non-contributory old age pensions and unemployment assistance and public assistance. The several services are described and reviewed, necessarily somewhat sketchily with the very wide field covered, their significance examined, their deficiencies set out, and suggestions put forward for improvements, with many statistics and several charts. Incidentally, there is a good deal of rather irritating repetition, because the opening "Summary and Conclusions" contains so much detail.

What the report does in the main, with some exceptions to which reference is made later, is to state present gaps and deficiencies, such as, to give a few examples out of many:—In education—inadequate provision of nursery schools and classes; the large number of "black list" schools and of large classes; the much more still to be done to implement the "Hadow" plan; the need, in the view of the authors, of doing away with the smaller education authorities and of considering regional authorities. In the public medical services—the need of extended maternity services, of more medical supervision at ages 1 to 5 years, of better school medical service and of making county councils and county borough councils the "omnibus" public medical authorities, and of more experiments in regional schemes.

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In National Health Insurance—the need of bringing in other classes of workers, of including family cash allowances as in unemployment insurance, of extending medical benefit to the wives and children of the insured, of inquiring into the working of the Approved Society system. Workmen's compensation—a hope that the Departmental Committee now sitting will consider making this a part of the public social services.

More general suggestions are that it should be considered whether the three present social assistance services might not be replaced by a comprehensive single service; that the recruitment and training of social workers should be improved; that "all those interested in the social services should now take stock of their assumptions and ideas on the subject, and endeavour to work out an approach adapted to present and to future, rather than to past, conditions" (p. 33)—a sentiment with which all can agree, with the proviso that adequate knowledge be obtained of the results and lessons of present services—and, the most interesting suggestion of all, that a Social Services Statutory Committee be established to "act as an advisory General Headquarters Staff for planning and guiding social policy" (p. 33).

What is the value of this ambitious report? It is convenient to have this information about the several services in one volume, though the information does not dig deeply and the volume contains little that is new. It is not a difficult task to set out gaps and shortcomings in the present services. It is not unfair to describe the report as a surface survey of the social services with little genuine research. The social services call aloud for thorough and systematic research. Some will regret that it has not been possible to use to better purpose the time and money, the energy and zeal which has gone to the preparation of the report. The social services bristle with questions and problems, some of them piercing deeply into the roots of the present social order; and something very much more thorough is essential if they are to be understood and right measures taken. Surface surveys can be useful, and can also be dangerous—all is not gold that glitters.

The principal definite suggestion, that of a Social Services Statutory Committee with the functions suggested, is of doubtful value. It is reminiscent of the inadequate Economic Advisory Council. There is need of more correlation between the several services, of more investigation of efficiency ("efficiency audits" or surveys as the writer has described them), and more deliberate consideration of "social services" policy as a whole. But this is too heavy a burden to place on a committee such as is proposed, and scarcely an appropriate burden considering how closely the functions concern ministerial duties and policy. The Unemployment Insurance

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Statutory Committee, one of the most interesting of recent administrative inventions, is a pertinent precedent, but its field is very limited and its principal, though not the sole, purpose is to ensure financial soundness. In health insurance the latter is already secured through the periodical actuarial reports; and in contributory pensions the Government Actuary has to make reports, but at too long intervals (10 years), and there is no assurance that the reports shall be adequately considered. The "planning and guiding social policy" allotted to the suggested new statutory Committee is quite another kettle of fish. With the great growth in the social services some new machinery for co-ordination and general policy seems desirable, but it should be compassed within the ministerial system, which does not exclude a consultative council and, still more essential, definite measures for research.

G.

### Eighteenth Annual Report of the Ministry of Health, 1936-37

Cmd. 5516. Pp. 328. (Stationery Office.) 5s. (postage extra).

ANYONE who wants full value for his money will obtain it abundantly by spending 5s. for this Report; but he should take it in homoeopathic doses, so many are the different subjects and so multitudinous the details. The following are a few of the many facts and other matters which it contains, in illustration of its varied contents.

3.3 m. (million) houses have been built since the Armistice, sufficient for about a third of the population; over 900,000 of these were provided by Local Authorities, over 400,000 by private enterprise with State assistance; nearly 2 m. by unassisted private enterprise; the estimated cost of assisted houses, public and private, is over £720,000,000. No other country comes within hail of this achievement. Rapid progress has been made in implementing the five years' programme of slum clearance launched in 1933. The survey of overcrowding has covered nearly 9 m. houses, and showed that 3.8 per cent. were overcrowded (the worst overcrowding being in East London and North-East England), that in 46 per cent. of the families the number of persons could be doubled without overcrowding and (a significant fact) that "the degree of overcrowding in Local Authorities' own houses was greater than in privately-owned houses . . ." (p. 112).

In town and country planning, good progress is reported and completed draft schemes are being put forward in larger numbers, after long incubation. There are now 133 executive joint planning committees, covering about two-thirds of the total land under planning,

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which itself is about three-fifths of the total area of the country. Helpful suggestions are made how best rural preservation can be secured in schemes.

Increased provision by Local Authorities for open spaces is indicated by a revenue expenditure of over £4 m. in 1934-5 (exclusive of nearly £1½ m. for loan charges) compared with under £200,000 in 1886-7. Great progress has been made in providing decent water supplies for villages, with the aid of grants by the Central Government and the County Councils; the total loans sanctioned for the purpose came to under £400,000 in 1933-4 and exceeded £5 m. in the three years 1934-7. Nearly 600 series of bye-laws or revised bye-laws and regulations were passed during the year, a striking indication of a large volume of unobtrusive work; general public notice is stirred only when, for instance, a bye-law requires that bathing beauties shall be less-sparingly clad! Marked changes have resulted from the review of local government areas which has been proceeding in recent years, and the number of urban and rural districts has been reduced from (in round figures) 1,430 to 1,130.

The income of Local Authorities exceeded £460 m. in 1934-5. Nearly £280 m. was obtained from rates and central grants, the rest coming from charges for services, etc. Of the £280 m., about 45 per cent. came from grants, the proportion varying in different areas, being as high as nearly 77 per cent. in county Huntingdon.

A wealth of information is given of the work of Local Authorities for health and of National Health Insurance. The Fourth Valuation of Approved Societies was completed during the year; societies and branches with over 13 m. members (over 90 per cent. of the total covered by the valuation) had a total surplus of nearly £33 m., over half of which was available for additional benefits; societies and branches with some 300,000 members had deficiencies, of a total amount of some £400,000. Additional cash benefits averaged 3s. 6d. a week in sickness pay, with corresponding increases in disablement and maternity benefit. The largest sums for additional treatment benefits were:— dental (over £2 m. in the year), ophthalmic (over £500,000), and convalescent home treatment, and medical and surgical appliances (about £200,000 each). The growing cost of disablement benefit continues to be disquieting, while the inordinate appetite of southern Britons for drugs, in this respect at any rate much less sensible than the Scots, goes on rising instead of falling.

The foregoing are only a few items culled from this rich store of information. In the opening part of the Report there is an interesting section on "public relations," a subject which the present Minister has made very much his own. It exhibits the revolution of recent years in the attitude of Government Departments, the Ministry in

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particular, towards the general public. The Departments are steadily realising that for democracy in its modern scope it is as important to inform and to instruct as to administer—and incidentally the public would do well to have their eyes wide open to the dangers inherent in this "informing and instructing," essential though it be; here even more in some ways than in administration proper a sound and strict code of aim and conduct is imperative. The public are assured in the Report that—"It is the constant effort of the Department to explain its operations in plain language and avoid so far as possible the laboured [!] obscurities and tedious circumlocutions of 'officialese' . . . ." (p. 2). It can be an interesting game for Local Authorities and private persons to test how far this "constant effort" bears fruit in communications.

But how long is the Department going to continue to deprive itself of one of the best avenues of publicity by cramming so multitudinous and diverse fare into one omnibus report instead of presenting separate reports on the several main divisions of its functions?

There is an interesting section on public cleansing (the collection and disposal of refuse and the cleansing of streets) which well deserves perusal. This service costs the country some £11 m. a year. Since the War the work has greatly increased. The standard of service has been vastly improved. The cost, however, has been kept steady.

This is attributable to several causes. First, a costing system has been established for the country, based on a report from a representative committee of experienced persons. Second, a new profession of cleansing officers, or directors of public cleansing, has grown up, with all the keenness of pioneers, the more so as in some quarters their coming has not been breezy with welcome. Not least, the Ministry have substantially helped and warmly co-operated with Local Authorities, especially through their invaluable genius of an Inspector of Public Cleansing, gathering together the experiences of Local Authorities and others and acting as a centre of intelligence and advice. The story of public cleansing in recent years has lessons of value for many branches of public administration.

X. X.

### Committees in Organisation

By L. URWICK. Pp. 48. (Management Journals Ltd.) 2s.

THIS book is full of hard condensed thinking: characteristically Major Urwick crams as much into fifty pages as most people would get into five hundred. He takes the committee as a piece of mechanism, proceeds to analyse first its structural and then its psychological characteristics, considers its disadvantages, and then seeks to find

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the reason for its widespread use. Finally, with the aid of curious diagrams he assesses the value of committees in what he calls the elementary and the specific activities, arriving at the conclusions (among others) that for jurisdiction a committee is fully efficient, for co-ordination it is about half efficient, and for leadership entirely useless. It is difficult to do justice to the argument in any review that is shorter than the book itself.

Characteristically, too, the book is very provocative: the subject is certainly one that needs "de-bunking," and for that particular task Major Urwick is well fitted. On page 3 he asserts, using block capitals to emphasise the point, that "committees have nothing to do with democracy." One has a vague feeling that they have, and I believe that that vague feeling is sound. It all depends, of course, on how the committee is chosen: there would be nothing democratic about a committee composed of the Archbishop of Canterbury, the First Sea Lord, and the Adjutant-General to the Forces, appointed for the purpose of administering a town-planning scheme (though it might be expected to reach a high level of disinterestedness). But such a committee for such a purpose is wildly improbable; committees, as they actually are composed, are often useful in introducing an additional element of democracy into administration. Indeed, Major Urwick half recognises this. On page 25 he writes: "In any order of society it is important that the administrator should have frequent and adequate opportunities of testing the views and feelings of those whom he administers. It is equally important that the administered should have occasion to require plain and public statement of the why and wherefore of administrative policy. . . . There is no temptation to which human nature is more liable than the tendency to draw a veil of secrecy over 'its administrative acts.' It avoids awkward questions and increases the sense of self-importance of the administrator."

For investigation—a purpose for which committees are so frequently used in the Civil Service—Major Urwick apparently regards committees as only 50 per cent. effective. I say "apparently" because it is difficult to make sure that one is interpreting the graph rightly; in general, these graphs come under suspicion as an attempt to express quantitatively what is essentially a qualitative problem. But Major Urwick's comments on this use of committees (page 31) are worth quoting: "The actual work of ascertaining and assembling facts can, in many instances, only be performed by an individual. . . . The correct functions of a committee in relation to investigation are rather to provide guidance as to the group of facts which are required for purposes of decision or report, to test the accuracy of the facts presented, to select among them those which are pertinent

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and reliable, and to synthetize the facts selected as a basis for general conclusions."

It is no doubt true, as Major Urwick suggests, that committees are an inferior substitute to good organisation, and that much of the work of committees could be better done by individuals, if only the responsibilities of those individuals were clearly defined and they were invested with sufficient power to carry out these responsibilities. But however neat our organisation, the tasks to be performed will sometimes cut across it; and especially in the Civil Service, the man who has sufficient authority to direct policy is often so exalted that he cannot be expected to have any detailed knowledge of the question at issue. The authority of a committee may be greater than the sum-total of the authority of its members; when once an organisation has appointed a member to a committee, it either has to accept the committee's report or to disavow its representative. It usually prefers the first alternative.

Major Urwick quotes the late Miss Follett's words: "There are three main ways of dealing with conflicts: domination, compromise and integration." Integration is, of course, the ideal; but this sort of collective thinking, though not unknown, is rare in committees. I suggest that it is attainable only when a committee is small in size (of not more than four members), and when the conflicts are superficial in comparison with an underlying unity of purpose. In the absence of this ideal, compromise is not to be despised, and even domination will certainly be more well informed and will probably be more effective if it expresses itself through a committee than if it is expressed in any other way. (Incidentally, Major Urwick assumes, I think, that the members of a committee choose their chairman; in the Civil Service the chairman is almost always appointed beforehand, and his power is all the greater in consequence.)

Major Urwick looks at the question through the eyes of a soldier. Some of us recall our contempt and dismay when we learnt that the Russian Army was melting away into Soldiers' and Workers' Councils. Committees are certainly ineffective for field-warfare. But we Civil Servants wage our little wars by means of registered papers, and if committees are often ineffective, registered papers are for most purposes more ineffective still. Committees bring us a step nearer to reality.

The conclusions are mainly matters of individual judgment, and to disagree with some of them does not in any way impugn the value of the book. I advise all who have experience of committees—and who has not?—to read the book; to adopt the writer's line of approach—it would be hard to find a better; to adopt also his method of reasoning, a mixture of Bacon with a strong element of Machiavelli; and to reach conclusions for themselves.

W. D. SHARP.

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### *The Indian Civil Service*

By Sir EDWARD BLUNT. Pp. 267. (Faber & Faber.) Price 8s. 6d.

A HISTORY of the Indian Civil Service and an account of the duties which it is called upon to discharge in India to-day might each, without any prolixity, supply material for a large volume. Sir Edward Blunt, as was to be expected of a distinguished Indian administrator and financier, has exercised a prudent economy and a skilful selection of material in dealing with both within the very succinct limits of a book, which supplies on good authority valuable information at an opportune moment.

Some knowledge of the origins and development of this great public service is, indeed, essential to an understanding of its achievements in the past and of its present significance at a cardinal phase of Indian politics and administration. There is no more astonishing episode in history than the rise of a private merchant company, adventuring from a small island in the Western Ocean, to its epiphany as the paramount power over the most renowned and fabulous territory of the East. It has not yet found the historian it deserves. That particular episode was consummated and ended by the assumption to the Crown of direct authority after the Indian Mutiny. A new chapter was then opened of which the dominant theme was administrative and economic consolidation and construction, and which continued, with little apparent disturbance of its essential unity, to the end of Lord Curzon's ill-starred second term as Viceroy. From this point onwards new factors increased and came more potently into action to open yet another chapter. The events and changes which this is destined to record are still being, or to be, enacted.

From the time when the East India Company acquired territory and the attributes of sovereignty, there were civil officials; the reforms of Lord Cornwallis in 1786 instituted an Indian Civil Service on lines recognisable in its present structure. From that time, certainly, the Service, as such, played a central part in Indian affairs. Of individual members, some were protagonists in "directing the great movement of Empire"; others, whose names are unknown in England, became legendary heroes in the still-living process of Indian mythology.

Of these things, Sir Edward Blunt's account is necessarily brief and summary, but it will suffice, as it was intended, as a guide to further inquiry and as an introduction to his main thesis. For he is more concerned, as he explains, to describe the work which the Civil Servant in India does to-day and the environment in which it is done. Even with an objective thus severely defined, it is a formidable undertaking to subdue the vast material to a clear perspective.

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For the Indian civilian's work is almost co-extensive with the life of India, and it is, perhaps, more necessary for him, than for most men, that his interests should extend beyond the letter of his duties. He must say, in the phrase of Terence quoted by the author, "*humani nihil a me alienum puto.*" It is probably still true to say—it was so certainly no more than thirty years ago—that the activities of government in India penetrate more widely and deeply into the everyday life of the people than in this country.

The machinery of administration is proportionately complicated and, as it is determined by conditions often very remote from the horizon of the Englishman at home, it must appear to him to move in a mysterious way. To convey in a brief compass a clear and accurate picture is an arduous task for both writer and reader.

The chapter on Land Revenue, for instance, will be, as the writer himself anticipates, a formidable stumbling-block to the uninitiated, who will also find, if he pursues his studies, that, in other parts of India, he is confronted by systems differing profoundly in method and technique from that of the United Provinces. The land and the revenue derived from it are almost the *primum mobile* in Indian administration; the diversity of tenures and the articulations of the social systems based on the land defy generalisation. The dilemma, therefore, cannot be escaped. Land Revenue has as many avatars as a Hindu deity. The description of one of them is valuable, but with due caution against accepting it too loosely as representative of others. A more general treatment has dangers of its own, but would, perhaps, be more conducive to clarity and comprehension in the first approaches to a subject which can never be completely mastered within the limits of any one man's study or experience.

In spite of these and similar difficulties inherent in the task, Sir Edward Blunt has faithfully delineated the institutional framework within which the majority of Indian civilians work. The district, the judicial system, the secretariat, the foreign and political department, the "special posts" (more likely to increase in number and variety than to diminish), all these are reviewed with the insight and impartiality which are the ripe fruit of the practice of government. Most readers will doubtless find the most vivid, the most interesting, and the most valuable passages of the book in those intimate pictures of the daily life and work of the Indian civilian which are most obviously drawn from personal experience. In spite of the manifold diversity of the Indian scene, the "old hand," wherever he may have served, will recognise, with sympathy or amusement, familiar problems, familiar situations, and familiar types of humanity. Nor will anyone of knowledge and experience contest the writer's judgment in the importance he assigns to work in the districts and to

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the personality of the District Officer. Despite the changes which have taken place since the days of which so pleasant and stimulating a record is found in these pages, and those which are implicit in the regime inaugurated by the new Government of India Act, the time is not yet in sight when the district will cease to be the fundamental unit of Indian administration. It is by their effects in the districts that the wisdom and equity of the measures of government in higher places will be brought ultimately to judgment. Sir Edward Blunt regards the future with a sober equanimity for which he gives good reasons and without the vain regrets which are indeed vain. But he does well to emphasise two facts, either directly or by implication. The demands which the new regime will make upon the Indian Civil Servant will certainly not be less exacting than in the past, and no lower standard of integrity, efficiency, and devotion to duty will suffice. On their side, the Indian statesmen, to whom so much is now committed, will do well to remember that the final test of their own failure or success will be worked out in places very remote from the floor, lobby or gallery of a legislature.

It is not the least merit of Sir Edward Blunt's work that there cannot be imputed to it either the prejudice or the artifice of a propagandist. He writes a round, unvarnished tale, extenuating nothing and setting down nothing in malice. Not withholding his own conclusions, he provides, but leaves for each man's judgment, material which will be invaluable to the general student of Indian affairs, but especially to the prospective candidate for the Indian Civil Service. Lord Hailey sagaciously holds that the crucial question for the right type of candidate will be, not the security or the emoluments of his career, but the nature and the intrinsic value of his work. To this question, Sir Edward Blunt gives a candid, a comprehensive, and a well-documented answer. J. C. CRERAR.

## *Dyarchy in Practice*

By A. APPADORAI. Foreword by Dr. A. B. Keith. (Longmans, Green & Co., 1937.) 9s. net.

Not the least remarkable feature of this book is that, while the frontier from dyarchy was crossed only on the 1st April this year, the author has succeeded in describing the late Indian Constitution, and in evaluating it, in the past tense. Persons unfamiliar with the most recent Indian constitutional developments might look on such a work with a more than usually critical eye, for it might not unreasonably be held that the time to write a comprehensive obituary notice of the Montagu-Chelmsford system had not yet arrived. In actual fact, however, the raw material for the obituary notices has been accumu-

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lating for many years—indeed ever since the Government of India Act, 1919, came into force. No one at any time, and least of all the authors of the Reforms, pretended that the dyarchical system was to be the solution of India's difficulties. It was essentially an experimental system, a sort of cautious groping; and almost as soon as the “new” constitution came in, the pens and voices of its critics became very active. Speech upon speech, report upon report followed each other with almost bewildering rapidity, till everything was summed up and analysed in what must be regarded as one of the greatest constitutional documents of all times—the Report of Sir John Simon and his colleagues on the Statutory Commission. Since the publication of that Report there has accumulated an enormous amount of additional material of first-class constitutional importance, the apex of which is the work of the Joint Select Committee and the Parliamentary proceedings leading to the passing of the Government of India Act, 1935.

Dr. Appadorai's work is concerned mainly with the materials leading to the Simon Report, though he has honestly and diligently traversed the later material, particularly the proceedings of the provincial legislatures. Let it be said that his study is accurate, and honest. It is also excellently documented. It would hardly be correct to say that it is complete, even though the book runs to 382 pages of letterpress and to 50 more pages of appendices and index. The time has not yet come for a complete study of the Montagu-Chelmsford system, even though such a wealth of material is available. Dr. Appadorai has attempted to evaluate dyarchy. He has compiled a chapter on its defects, and on its achievements. For most of his conclusions he has quoted ample, and usually illustrious authority; but one ventures to think that the best estimates of dyarchy will come in due course from those who were intimately concerned in administering the Government of India Act, 1919, either as executive officers or as members of the legislature.

In the heat of debate it was easy to “crab” dyarchy by saying that it gave only partially responsible government; but would anyone seriously contend that fully responsible government could have followed directly in the steps of the Morley-Minto system? And there are many—far more than is usually supposed—who will say that the dyarchical legislatures, especially in their early stages, were really quite glad to have the safeguard of the Reserved side, with its wealth of ripe executive experience. And there can be no gainsaying the fact that the responsibility conferred by the Act of 1919 was real, as was amply testified in Bengal when an exuberant legislature so severely handled the Education grants in the Budget that the educational system of the Presidency was almost brought to confusion. A

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very chastened legislature had to hasten to put right for itself what no Governor or Governor-General could certify. Such lessons are of inestimable value for the new system of government; and if one were to venture an opinion on the virtues of dyarchy, one would not err far in saying that its chief value has been the training it has given the Provinces in parliamentary forms, usages and effects. In the first elections under the present system, many of the leading figures of the dyarchical system were cast aside, but when party alignments are more clear, a considerable proportion of these will reappear, and they will provide a most valuable element in the government of the country. In some provinces, the ministries are manned partially by survivors of the old régime, and, whatever course legislation may take, there can be no question but that their experience in dyarchy will be of great value. Dyarchy was a first-class training school.

Dyarchy also provided an excellent transition period for the Indian Services. Dr. Appadorai deals rather inadequately with this important subject, possibly because the material is not so abundant. The Services as a whole, and, in particular, the Indian Civil Service, deserve considerable credit for the quick and efficient manner in which they adapted themselves to the changes in the form of government. The senior members of the Services, that is, those who are carrying the heaviest burdens to-day, were very largely recruited before even the Morley-Minto reforms came into effect. Had a young Indian Civil Servant, recruited in 1907, been informed that before he had completed thirty years' service, India would have passed from almost complete bureaucracy to almost complete parliamentary responsibility, he would have thought the prophecy so wild as to savour of madness. Yet so it is. And one ventures the opinion that, when the frontier of time is a little more distant, critical historians like Dr. Appadorai will find in the adaptability of the Indian Services one of the most remarkable features of the changing constitutional position.

Dr. Appadorai perhaps has more to say in the nature of adverse criticism than is warranted; but this is probably due to his free use of the sayings and documents of the sterner critics of dyarchy. Of these there were legion, for most of them were interested in destroying, in order to build on wider foundations. Now that responsibility has arrived, dyarchy may be more temperately judged not only as one of the world's great experiments in constitution making but as a training ground for a more liberal democratic system. But Dr. Appadorai has done a splendid piece of work; well arranged, well written, well produced, it is, as Dr. Keith says, a credit to the Madras School of History. Now let Dr. Appadorai, and his colleagues, delve further

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in the contemporary field, and study the work immediately preceding the Joint Select Committee's Report, the Report itself, and the subsequent translation of that Report into the Government of India Act, 1935, and the present system of government, for, if the reviewer is not mistaken, this must rank as one of the most noteworthy constitutional achievements of all time.

R. N. GILCHRIST.

# Notes

## NOTES ON ADMINISTRATIVE LAW

By IVOR JENNINGS, M.A., LL.D.

### *The Overruling of Old Cases*

The law of assessment for rating cannot be said to possess the characteristics of stark simplicity and sweet reasonableness which are said by some to belong to the common law. The fundamental principles are contained in a few statutes passed long ago when "rent" was a simple and universal kind of property whose value could readily be determined. In the expansive days of the eighteenth century, and even in the rolled-gold age of Mr. Disraeli, the question whether a gentleman of adequate political influence could have his blood ennobled could be determined by his rent-roll. The tenants were real tenants paying a real rent. To-day, the candidate for aristocracy is a shareholder in a multiplicity of companies, each of which is a hypothetical landlord of a hypothetical tenant receiving hypothetical rent; rating officers have perforce become speculative philosophers, and the courts must sometimes wonder whether they ought not to go to Cambridge for a course in the higher mathematics. The result is as confused a collection of decisions as has ever disgraced the law reports.

Nevertheless, the rating officer would more or less know whether he was standing on his hypothetical head or on his hypothetical feet if the decisions which seemed to be bumping against him somewhere were terra firma and not mere hypotheses. Recently, however, the courts have taken to the revolutionary doctrine that many of the decisions of their predecessors were nonsense. The Whigs have, so to speak, gone over to the Jacobins, and the guillotine is falling rather heavily. There have been two recent examples. In *Westminster City Council v. Southern Rly. Co.* [1936] A.C. 511 (a nice case full of lovely hypotheses), the House of Lords held that bookstalls, a chemist's shop, kiosks, hairdressing saloons and other tenements within the area of a railway station were not "railway hereditaments"; and in so doing they overruled *Smith v. Lambeth Assessment Committee* (1882), 10 Q.B.D. 327, a case which in substance decided the opposite and which has been assumed to be law for something more than fifty years. It had been followed twice in Scotland and once in Ireland; it had been "explained" by Lindley L.J. in 1884 in a passage "which at first sight is puzzling." It was strenuously argued that it has stood so long as an authority that it ought not to be overruled; but Lord Wright M.R. said, "there is no rule which debars your Lordships from doing justice even at the cost of reversing an old authority, that is an authority of a Court inferior to this House."

It must be remembered that appeal to the House of Lords has always been a comparatively rare event. It has been well said that "the Courts are open to everybody like the Ritz Hotel"; and the House of Lords is not as popular a resort as the Corner House. It is, in fact, the place for the bloated plutocrats of the modern world, the wealthy corporations. If the House began overruling old decisions on the ground that they were taken by inferior courts and that the House would be prevented from doing justice, whole branches of the law would

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be open to review. A difficulty of that kind has recently arisen in *Lindsey County Council v. Marshall*, [1937] A.C. 97, a decision already referred to in these Notes. In respect of rating the example of the House of Lords has now been followed by the Court of Appeal in *Robinson Brothers (Brewers) Ltd. v. Durham Assessment Committee* (1937), 35 L.G.R. 357. The question at issue related to a "tied" public-house in the occupation of a manager on behalf of brewers. There was, therefore, no rent, and the court had to enter that delightful realm of the hypothetical. If there were a tenant, would he pay rent on the basis of the profit which a tenant of a public-house would be able to make by retail sale of beer; or would he pay rent on the basis that, being a brewer, he made an additional profit by brewing his own beer? It had been decided in *Bradford-on-Avon Assessment Committee v. White*, [1898] 2 Q.B. 630, that the former was the correct interpretation; and in the Divisional Court this decision was not only followed but approved: [1936] 2 K.B. 283. In the Court of Appeal, however, it was considered that this decision was "plainly wrong." If there is competition among brewers for the ownership and occupation of public-houses, then the market rent must take that fact into account; just as the rent of a house in Harley Street must be based not on the rent which an ordinary tenant in the neighbourhood would pay for a similar house, but on the rent which a medical practitioner might be expected to pay because of the magic of the name. So the case of 1898 was overruled because "according to the views expressed by the House of Lords" in the Southern Railway case, the Court was entitled to do justice even to the extent of overruling a case which had stood as law for nearly thirty years.

No one doubts that there is a great deal of nonsense in the existing case law; nor indeed does anyone doubt that if agreement could be reached about a new basis of local taxation legislation to alter it would be received with relief. But reformation by the courts is always an undesirable method. It is slow, accidental, and based on the narrow considerations of individual cases. *Stare decisis* on the assumption that only a House of Lords decision stands is in fact a worse method of achieving stability in the law than an intelligible system of statutes without the rule of precedent. There is, too, a further difficulty about rating law. The rateable value is based upon the rent; but rents depend in part on rateable value. A prospective tenant first asks the rent and then asks the rateable value. The rent which he is willing to pay is a function of the rates which will be demanded from him. Other things being equal, an increase in rateable value will decrease rents by decreasing demand for accommodation. Consequently, when the courts decide to modify the accepted basis of valuation in respect of any particular class of property they alter in the long run the property interests of landlords. Rents are no longer sacrosanct, but fundamental alterations ought not to be made without due consideration. If there be a standard of "justice" it is, like truth, many sided, and its nature should be considered as a whole. When Greer L.J. said that "practical injustice must follow if we act on the Division Court's decision. . . . inasmuch as brewers would be relieved from being rated on the true value of public-houses carried on on their behalf, with the result that other hereditaments would suffer from over-rating," he was considering only part of the economic problem.

### More Natural Justice

There are two methods by which owners of slum property can continue to draw an anti-social income from their property. The one is to plead before Parliament that they are being treated unjustly, as they did in 1935 (with considerable success); the other is to find highly technical objections to the procedure used. The latter method was used with success in *Errington v. Minister*

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*of Health*, [1935] 1 K.B. 249; but subsequent decisions have partially closed the gap left open, and care is now taken to see that the particular kind of "natural justice" there demanded is always provided. The method was again used with success in *Marriott v. Minister of Health* (1936), 34 L.G.R. 401; and the owner who does not want to have his property taken compulsorily can, if he pleases, pull down the buildings before the compulsory purchase order is confirmed, and so save the land. Subsequent attempts, however, have not met with success. In *William Denby & Sons v. Minister of Health*, [1936] 1 K.B. 337, it was sought to persuade Swift J. to overrule the decision of the House of Lords in *Local Government Board v. Arlidge*, [1915] A.C. 120. In *Fredman v. Minister of Health* (1936), 34 L.G.R. 153, Swift J. was asked to revive *Cooper v. Wandsworth District Board of Works* (1863), 14 C.B.N.S. 180, in very different conditions, so as to give the slum-owner the right to be heard on the resolution for a clearance area, and not merely at the local inquiry. In the most recent cases, natural justice *eo nomine* has been forgotten, and an attempt has been made to produce the same result by way of interpretation. In *Willey v. Minister of Health* (1937), 35 L.G.R. 416, it was argued that the plain alternative in section 1 (3) of the Housing Act, 1930, was not a plain alternative at all, but that the onus was upon the local authority to show why they proposed to proceed by compulsory purchase order instead of by clearance order. The town clerk refused all information on the subject, and Swift J. agreed that the choice of means rested entirely with the local authority, subject to the approval of the Minister. In *Halse v. Minister of Health* (1937), 35 L.G.R. 421, an attempt was made to get *Cooper v. Wandsworth District Board of Works* in by the kitchen window. There must, said counsel, be material upon which the local authority can decide whether certain property should be included in a clearance order. Therefore it must hear evidence from the owner to indicate why such property should not be included. The basis of this argument appears to be a qualification introduced by Swift J. into his decision in *In re Bowman*, [1932] 2 K.B. 621. It is permissible to doubt whether the qualification meant anything; it was put in by way of abundant precaution because that case was one of the first under the Act of 1930, and Swift J. was giving a general exposition of the powers of the Court. He said that it certainly did not mean what counsel said that it meant, but that it ought to be read as "ordinary English" and not converted into something that it obviously did not mean. The further argument that the Minister himself ought to have heard evidence is another attempt to overrule *Local Government Board v. Arlidge* and a considerable number of other cases, some in the House of Lords; and though it is stated by the reporter that the argument was put forward, Swift J. did not give it even the courtesy of a mention. On the other hand, Swift J. made one statement that he recognised that he had no jurisdiction to make. "I cannot resist *en passant* saying that to my mind it was an overwhelming case of horrid slums which ought to be quickly cleared away." We are, in fact, given some of the information on which this comment was based: "These houses were built as far back as 1690 or 1720. There are twelve of them in the area, one is a lock-up shop and three of the houses are divided into separate tenements. Some of the houses are back to back, some of them are back to the earth, and some of them are underneath other houses, and some of them are above other houses. They are no doubt delightfully picturesque and splendid for artists visiting Falmouth looking for grist for the artistic mill but they are contrary to one's notion as to how people ought to live and of homes which are fit to live in in these days."

### Law and Facts

There is, it is said, a clear distinction between questions of law and questions of fact. Let us not quibble and say that what is the law is often a fact as

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difficult to ascertain as what are the facts; for there is a more serious difficulty. What the law says is that if the facts of an act or event can be fitted into certain categories, then certain consequences shall follow. If a blue-eyed blonde named Joan drives rapidly down Kensington High Street on her right-hand side so that the vehicle collides with a stalwart youth named Henry, who has a pimple on his nose, some of these "facts" are relevant because they help to fit the circumstances into legal categories, and some are not because they do not help. The fact that Joan is a blue-eyed blonde is of no importance to the law, though it may help before a male jury (and if she were charged with dangerous driving her solicitor would no doubt advise her to be tried by a jury unless he knew his local bench pretty well). Nor is the pimple on Henry's nose a legal matter, though it may prejudice his evidence before an unsympathetic jury. On the other hand, the fact of driving on the right-hand side may indicate that the driving comes within the category prescribed by the Road Traffic Act, 1930. But are there any "facts" in the statement? Any statement—any evidence, therefore, which is not demonstrative evidence—must be expressed in general terms or categories. The blue-eyed blonde can be produced for inspection; but if the policeman says that Joan is a blue-eyed blonde he is assuming a definition of blue-eyed blondes; and if the statute says anything about blue-eyed blondes he is interpreting the statute—that is, asserting law and not fact. This is readily admitted where the category is "burglary"; but there is no difference in principle where the statute says "drunk." The fact that the meaning of "burglary" is a question of law while the meaning of "drunk" is a question of fact shows that the difference is one of law or convention. Moreover, "burglary" is defined in general terms, which are either factual categories or legal categories based on factual categories. Nor does it avoid the difficulty to say that the meaning of, say, "driving to the danger of the public" is a question of law, whereas the question whether a person has within the meaning driven to the danger of the public is a question of fact; for this is merely to state the situation in a slightly different way.

Some recent decisions show the difficulties involved. First, an older but well-known case is interesting. In *R. v. Board of Education* (1910), 8 L.G.R. 549, it was stated that the power of the Board of Education under section 7 (3) of the Education Act, 1902, was to determine questions of fact, not questions of law. But in coming to a conclusion on the facts, the Board had to form an opinion on the construction of the statute, though it was for the Court to determine the construction. In *Tidy v. Battman*, [1934] 1 K.B. 319, it was held that the question whether a certain act was contributory negligence should be left to the jury. In *Paterson Steamships Ltd. v. Canadian Co-operative Wheat Producers*, [1934] A.C. 538, it was said that though the finding that a ship is unseaworthy may be a "mixed question of fact and law," unseaworthiness depends on a construction of law. The reader is invited to look at the case to see if that means anything at all. In *Powell v. Streatham Manor Nursing Home*, [1935] A.C. 243, it was decided to be a pure question of fact whether the negligence of the nurse had caused a puncture in the plaintiff's bladder.

Most of the other examples could be cited to show that it is a question of law whether a question is a question of fact or a question of law; which seem to be, and is, nonsense. Take, for instance, the most recent case, *Ritz Cleaners Ltd. v. West Middlesex Assessment Committee* (1937), 35 L.G.R. 309. Here premises were occupied by a firm of dyers and cleaners, whose business consisted of cleaning, dyeing and repairing garments. About one-third of the garments were brought to the premises by members of the public, and the remainder were collected by the firm's vanmen, partly from customers' houses and partly from collecting centres. The premises had the external appearance of a shop. In the front room stood a machine in which certain chemical processes took place. In other rooms

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the cleaning, dyeing, repairing, pressing and packing of garments took place. On these "facts" quarter sessions held that the premises were primarily used as an industrial hereditament and that they were not primarily used as a shop, but that part of them were used for non-industrial purposes. Is that a finding of fact or of law?

The Lord Chief Justice in the Divisional Court evidently thought that the determination was one of fact, that there was evidence to support that determination, and that therefore the decision ought not to be interfered with. Greer L.J., on the other hand, said that where the facts are found by the tribunal the inference to be drawn therefrom is a question of law and not of fact, unless the facts show that the question is one of degree. On the facts found it seemed to him that the premises were a retail shop or business with a factory attached. Similarly, Greene L.J. said: "I do not myself find it possible to ascertain from the special case whether the Court of Quarter Sessions based its decision upon the view that the hereditament as a whole was not occupied and used for the purposes of a retail shop or upon the view that it was not primarily so occupied. If they took the former view they were in my opinion wrong for the reasons which I have given. They were moreover wrong in law, since the question whether upon the ascertained facts the purposes for which the hereditament is used and occupied are those of a retail shop is in my judgment clearly a question of law."

This means that if Quarter Sessions said that the premises were not used primarily as a retail shop they were making an assertion of law; but if they made statements of not quite the same generality, which in their view led to the decision that the premises were not primarily used as a retail shop, they were making statements of fact. If, therefore, a court says that Murphy was drunk, it is making an assertion of law; but if it says that Murphy could not say "British Constitution," was unsteady in his gait, thick in his speech, and slow in his reactions, and was therefore drunk, it is making a statement of fact followed by an inference of law. But why does it make the statement of fact? Obviously because it thinks that the fact leads to the conclusion of law. It would not say that Murphy wrote with his left hand, had a wooden leg, and lived with a woman who was not his wife, because it would not think that these assertions were relevant to the meaning of drunk in law. In other words, the court interprets the law and then finds the facts. Similarly, Quarter Sessions cannot set out the facts which in its opinion prevent the premises from being a retail shop without first interpreting what it means by "retail shop." How, therefore, can the higher court overrule Quarter Sessions without hearing all the evidence again? The relevancy of facts is determined by the law; the court finds the relevant facts accordingly and decides the law; the Court of Appeal says that the relevant facts do not make the law; but if the court below had known that, it would not have found those relevant facts. In truth, the problem goes back much further. In a criminal case the police first interpret the law; on that basis they produce relevant facts. If the court believe those relevant facts it decides the law. If the court is asked to state a case the clerk states what he thinks to be the relevant facts, and the higher court says whether those facts make the law; but in fact the relevant facts from the beginning depend upon an interpretation of the law. If the House of Lords were suddenly to decide—to take an extreme case—that blue-eyed blondes were not "persons" it would never be known that thousands of cases had been wrongly decided, because nowhere is it placed on record whether persons were blue-eyed blondes or black-eyed brunettes: and in any case this is a matter of interpretation, for who, in these days, knows a blonde when he sees one?

### *No Opinion Expressed*

It may be convenient to notice that in two recent decisions the courts have expressed no opinion as to the use of prerogative writs. It is well known that

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after *R. v. Minister of Health, ex parte Davis*, [1929] 1 K.B. 619, the occasion of the Housing Act, 1930, was taken to prevent the application of the dilatory prerogative writs to Housing law. Yet here it is again in *R. v. Minister of Health, ex parte Hack* (1937), 35 L.G.R. 349—an attempt to prohibit confirmation of a compulsory purchase order. The point was made, but the court did not decide the question, and so learned counsel with a taste for technicalities lives to fight another day. In *R. v. Cornwall County Council, ex parte Falmouth Rating Authority* (1937), 35 L.G.R. 321, doubt was expressed about the issue of prohibition and *certiorari* to the county valuation committee, on the ground that the committee was an administrative body and not a "court." The definition of "court" has been much extended in the laudable attempt to find effective means to prevent public authorities from exceeding their legal powers, and it is a pity that the Court of Appeal did not take the opportunity of saying whether the requirement of a "court" is or is not a pure fiction.

## Book Notes

**The Unemployment Insurance Statutory Committee.** By Sir William Beveridge. Pp. 55. Political Pamphlet No. 1. (London School of Economics and Political Science.) 1s.

THIS is the first of a new series of pamphlets published by the School of Economics. There is a good deal to be said for the issue of pamphlets on social subjects, not least that they compel authors to be brief, and they are a handy method of instruction. But unfortunately they are not usually a paying proposition. This new venture is to be commended.

The Unemployment Insurance Statutory Committee is one of the most interesting of recent experiments in government and the author of this pamphlet is the leading authority on unemployment insurance, is the chairman of the Committee and is a practised and lucid writer. Little more need be said to commend the pamphlet. It is an interesting account of a new experiment in democratic checks of which the importance goes far beyond unemployment insurance. It may well be the beginning of a new series of measures for clothing democratic government with more consideration. There is perhaps some danger that the Committee may be inveigled into too much detail and that the Department may too readily use it for shelving responsibility, a failing which can readily spread and undermine efficiency. But this does not concern its main functions, and its record up to the present has been admirable and its promise hopeful for extension to other spheres of the general idea underlying its establishment.

G.

**The Future of Merseyside.** W. G. Holford and W. A. Eden. 84 pages and 3 maps. (Liverpool University Press.) 2s. 6d. net.

THE authors of the Social Survey of Merseyside and of the New Merseyside Series, of which this little book forms part, have done a great service by popularising the conception of Merseyside: it may well be that they have added a new word to the English language. Professor Reilly has long ago called attention to the magnificence of the river-front at Hamburg, in contrast with the way in which Liverpool and Birkenhead turn their backs, so to speak, on the river and on each other. Similarly, all the areas of local government have the river as one of their boundaries: that sort of development was natural at a time when a river of three-quarters of a mile wide was a formidable obstacle, but it is entirely unsuited to the sociological needs of the present day.

The authors of this book review the town-planning schemes already in prospect, and reach the conclusion that "they will make only a negligible contribution towards the fulfilment of our major needs." They advocate a regional authority—a Merseyside County Council.

Every public servant will recognise the difficulties that stand in the way of the realization of this ideal. No government would want to embark on such a project unless it had a solid body of enlightened public opinion behind it. It is by books such as this that public opinion is formed.

The excellent maps which the authors provide enable the reader who knows little of the topography of Merseyside to follow the argument. But it is rather heavy going: and to say this is no criticism of a book which is after all mainly intended for Merseysiders themselves. The chief national interest of the book is that it gives an extreme example of a problem that is all too common.

W. D. S.

## Book Notes

**The South African Journal of Economics.** Vol. 5, No. 1. March, 1937.

THIS issue opens with a paper by Professor A. G. B. Fisher on the balance of trade between South Africa and Australia. He uses the import and export figures of the two countries as a text on which to preach a short and extremely cogent sermon on the unreliability of published statistics as a guide to commercial policy unless those statistics are subjected to a great deal more critical examination than is normally accorded to them or is, indeed, normally possible when the subject is being dealt with as a matter of public controversy. The idea that trade should be organised on a so-called reciprocal basis which aims at substantial identity of exports and imports between each pair of countries has become increasingly powerful, and Professor Fisher's paper is a useful corrective, not so much to the theory but to the practical possibility of its application. He shows, for example, that Australian imports of South African origin for the period 1920-1935 are recorded as being of a value of £7,108,000, while South African exports to Australia, after taking account of costs of transport, etc., are valued only at £4,095,000. An examination of the various items making up this total show almost equally amazing discrepancies.

Professor Fisher's conclusion is well worth quoting:—

"It may, perhaps, be worth while to state definitely that an analysis of these discrepancies suggests no doubts about the carefulness or good faith of the customs authorities in either country. They no doubt do the best they can with the material at their disposal, but it becomes abundantly clear that even the most careful statisticians are unable in this field to produce results which are worthy of the simple-minded faith which those who engage in controversy about trade balances frequently display. The only remedy for bad or inaccurate statistics is more and better statistics. With the material so far placed at our disposal, the only attitude which is possible for a sensitive intellectual conscience is chronic scepticism."

Mr. E. D. Weiss contributes a paper on rail and road competition in Great Britain in which he examines the problem from the point of view of charges. His conclusion is that the solution of the difficulty from the point of view of the railways is probably not to be found in freedom from control in the matter of freights but in adapting to the changed circumstances those parts of their freight system which give them a chance to secure or retain traffic which, by its regularity and volume, it is absolutely vital for them to retain.

There is a paper by Mr. W. J. Busschau on the perennial subject of gold-mining investment, notes on the Union's imports, exports and overseas balances by Mr. A. J. Limebeer, and a paper on the doctrinal aspects of State interference by Mr. F. J. Van Biljon. There are also the usual reviews and notes.

J. K.

**The South African Journal of Economics.** Vol. 5, No. 2. June, 1937. 6s. net.

A PAPER in the *South African Journal of Economics* on gold is certain to produce further papers, comments and criticisms. In this issue, therefore, it is not unexpected to find two papers on the article by Mr. Busschau in the last issue and a reply to the discussion by Mr. Busschau himself. The series is extremely interesting to the economist as well as to the wider public in a country so intensely interested in gold as South Africa must be, but it is not perhaps of quite the same interest to United Kingdom general readers.

The article in the last issue on road and rail competition in Great Britain is followed, apparently quite fortuitously, by an examination of the restriction of competition between similar services in the Union of South Africa. Its general intention is to show that road competition in the Union has been unfairly throttled by the use of the monopolistic powers of the railways made possible by

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the fact of State ownership. Mr. Horwitz's view is that the severe restrictions on road transport have been called for, not in legitimate defence of the railways against unfair competition, but in defence of the particular price structure of the South African railway tariff, which gives uneconomic rates to agricultural produce and recoups itself by excessive charges on other commodities and on short hauls which could probably more economically be dealt with by road transport. Owing to the political importance of the agricultural community, it seems unlikely that the present policy will be reversed.

Mr. H. A. Shannon contributes a paper on Urbanisation, dealing with the drift to the towns in South Africa, due very largely again to gold, and there is an amusing article by Mr. C. W. Pearsall dealing with the finances of a rather extraordinary mutual aid association of railway and harbour servants.

There are the usual reviews, notes and memoranda.

J. K.

**Economic Record.** Vol. 13, No. 24. June, 1937, 5s. net.

THIS issue opens with an enthusiastic tribute by Mr. C. R. Fay to the memory of his friend and teacher, Edwin Cannan. To those who are personally acquainted with economists in this country, the cryptic and allusive style presents no difficulty, but whether Australian economists, for whom it is written, will derive quite the same impression is perhaps a little doubtful.

Recent examinations of the effects of the Australian tariff are followed in this issue by a short article by Mr. W. B. Reddaway in which he examines the loss in real income suffered by the community as a result of the adoption of a tariff policy. By the use of assumptions at least as drastic as those adopted by economists whose conclusions he disputes, he comes to the conclusion that the real burden of the tariff on the community as a whole is substantially less than the additional price which the community has to pay for goods as the result of the tariff, but that, on the other hand, the loss of real income from rents in the export industries is substantially greater than what are usually called excess costs, since, while other factors of production could be re-distributed between different uses, land could, broadly speaking, be used only for export production. Consequently the effect on the individual States of the Commonwealth is to penalise those with a high proportion of good export land by reducing their rent incomes, and those with much marginal land by rendering it unprofitable. On the other hand, it benefits those with a high proportion of protected industry.

There are articles on the Victorian boot and shoe industry, an examination of the theory of comparative costs in international trade, and papers on size and efficiency in New Zealand industry, and on price fixation and control in non-export trades in New Zealand. There is also a statistical examination by Professor A. G. B. Fisher of the problem of shorter working hours and industrial transfers.

There are the usual reviews and notes.

J. K.

**Trends in Chinese Public Administration.** Published by the Council of International Affairs, Nanking.

THIS is one of a series of Information Bulletins which describe, for the rest of the world, the changes which are taking place in modern China. The bulletins are being published three times a month, and the annual subscription is three dollars (U.S.A.).

The present bulletin contains a very interesting description of the efforts which have been made by the Nanking Government to raise the efficiency of public administration, both central and local, to a standard which will enable the country to meet the critical conditions which have been created by the impact of Western ideas and the Western type of civilisation—if we may suppress the sense of irony

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which would forbid the use of the word "civilisation." Most fervently must we hope that the present painful chapter in the long history of China will record permanent gains for the people. If it does, one of them will surely be the success of the efforts which are being made to modernise the public administration while preserving some of the distinctive features of the ancient social organisation.

One indigenous institution which is being incorporated in the new fabric is the Pao-Chia system. This consists in the grouping of families into *chias* of ten, and these *chias* into *paos* of a hundred families with a *pao chang* at the head. Under this grouping police services and such local services as road-making are carried out. It is recognised that the success of this system, as indeed of the whole administrative organisation, depends on getting proper men to fill the administrative posts. Steps have been taken to create a public service of real efficiency, both as regards its personnel and its organisation of functions, and a clear account of what is being done is given in the bulletin. China, as everybody knows, was the originator of the competitive examination for public posts, but the system had fallen into decay and corruption. Its revival, very much on the model of the British civil service, is described; and there are points in the present scheme which are well worthy of attention by the Western world.

A. J. W.

**May the Twelfth. Mass Observation Day—Surveys, 1937.** By over 200 observers. Edited by Humphrey Jennings, Charles Madge, and others. Pp. xiii. + 431. (London: Faber & Faber.) 12s. 6d.

MASS Observation, apparently an attempt to derive sociological truth from the broad study of any and every fact in the daily lives of all the people, now presents a first large instalment of results. Inasmuch as it is almost exclusively a factual record, much of it of an apparently unredeemable triviality, it is difficult to assess its value from the sociological standpoint. The claim of its editors that taken as a whole it is a document of great historical interest will at least not be disputed. What would we not give for a similar record of events in Rome on the triumph of Augustus or in England on the coronation of Henry V?

But the book professes also to be "of interest to the social worker, the field anthropologist, the politician, the advertising agent, the realistic novelist and indeed any person who is concerned to know what people really want and think." From the broader philosophical standpoint the book raises all the old problems of methodology which are the commonplace of introductions to social studies while it makes the scantiest contribution to their elucidation (p. 349 *et seq.*). Social reporting from a definite viewpoint is no novelty. Not only is there the recent New Survey of London Life and Labour on the scientific side but there is the huge output of fiction to hold up a mirror to the world. At present "Mass Observation" lacks the planned method and the quantitative precision of the former and is devoid of the canons of interpretation discoverable in the best fiction. It suffers from encouraging its supporters indiscriminately to bark up all the social research trees at once. It is difficult to see how a good deal of the material presented in this work could be rescued from the charge of mere exhibitionism. Although the new volume cannot therefore be welcomed as a noticeable contribution to science or art it nevertheless has an interest of its own even although the interest aroused remains in the end unsatisfied and merely succeeds in provoking the question "What next?"

F. R. C.

**Newcomers and Nomads in California.** By William T. Cross and Dorothy E. Cross. (Stanford University Press. Humphrey Milford.) London, 1937. 7s. 6d.

In the summer of 1930 the reviewer was stranded on the road to California with a burnt-out bearing in the desert heights of New Mexico. Among the few cars on the

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road was one coming eastwards whose driver, after explaining that he could not stay to help because he had a sick child in the car, added a friendly warning that things were not so good in California and that if we were looking for a job we should think twice before trying our luck in the Golden West.

The great slump was then making itself felt. It has since been followed by other major disasters from dust storms and floods. The continual flow of population to California which has always been going on has thus been augmented by many who were facing economic shipwreck. There have also been many more vagrants and homeless wanderers.

How California and the Federal Government reacted to these thousands of needy and destitute people is the theme of this excellent little survey by two writers who have had practical experience of social work. Some interesting parallels with the English poor law history of the sixteenth century are reported, including at one time a demand that the California State line should be policed to control the inrush of indigent immigrants.

The chief interest of the book naturally lies in its account of the hastily-improvised social welfare services and its critical appraisal of their efficacy. Graphs, diagrams and an ample bibliography are provided.

F. R. C.

**Pressure Politics in New York.** By Belle Zeller. Assistant Professor of Brooklyn College, New York. Pp. xi. + 310. (Prentice Hall.) 1937. \$3.00.

"To-day," says Miss Zeller in her careful and painstaking survey of political lobbying at Albany, "organised minorities have become so closely identified with the formal governmental structure itself as to constitute the real centre of political and economic power."

Chapter and verse supporting this assertion, which is of course no novelty in American political literature, is provided in her pages. The material has been gathered largely by personal inquiry, it is well organised and presented in a competent, workmanlike manner. How familiar some of the personalities seem. "The legislative agent of the [Real Estate] Board is a well-known figure in Albany official circles for 50 years, first as a member of the legislature and since then as a lobbyist. He moves familiarly in Albany officialdom, using cigars as calling cards and calling legislators by their first names."

Miss Zeller has made a determined effort to present a complete general picture of lobbying activities in a State Legislature without seeking sensational effects in the manner of the "muck-rakers." Some of the facts are disturbing enough; notably the activities of certain business interests, concerned in the main to defeat proposals for greater public control of their operations, who "have been able to pass their lobbying expenses on to the consumer in good times as well as in bad" and as a result "have developed publicity projects on a much wider scale than the other economic pressure groups of the State." These little by-products of private enterprise are apt to receive less attention than they deserve from champions of economic liberalism. The bad lobbying record of the "public utilities," as the large private power, light and transport companies are called, has, it will be remembered, recently received widespread publicity in a report of the Federal Trade Commission.

In addition to the business interests, Miss Zeller reports upon the labour groups, which are the chief pressure group, the farmers, the eminently respectable lobby of the State Charities Aid Association, and those of various professions and crusading bodies, whether for temperance or the rights of women. Concluding chapters present a general summary of the techniques of pressure groups and a survey of the possibilities of control. The New York Lobbying Law of 1906 with its registration system seems to be ineffective because it is not enforced.

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Although the remedies proposed by the author seem both desirable and practical, she realises that the task of a reformer is going to be difficult. For there can be no question of silencing pressure groups, nor would it be desirable to do so even if it were possible. With her contention that the needs of the general public or the great mass of consumers tend to be lost sight of in the present competitive pressure of the organised lobbyists few will disagree.

Miss Zeller is courageous in pointing to the defects of the State machine and in seeking to grapple with the task of proposing remedies. Her book deserves to be studied wherever need is felt for wider general knowledge of the forces at work behind the scenes while legislative deliberations are going on.

F. R. C.

## Institute Notes and News

**Obituary.**—With very deep regret we record the death of Mr. F. G. Bowers, the Hon. Treasurer of the Institute. Mr. Bowers was elected to the office two years ago, not long after he had been appointed to the important post of Comptroller of the London County Council. His friends had foreseen for him in that post a brilliant phase of an already brilliant career, and he had fully justified their hopes, when, following a brief illness, death brought an unexpected end to his work. As Honorary Treasurer of the Institute he was not content to be the mere figure-head which he might have been, having a capable Assistant Hon. Treasurer to lean upon. He took an active interest in all the affairs of the Institute and attended Committee and Council meetings loyally and regularly. His wise counsel at these meetings will be greatly missed.

The death of Sir John Brooke and Sir Arthur Oliver has also deprived the Institute of the services of two of its most helpful and valued members.

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**London University: New Diploma in Public Administration.**—Representations have been made to the London University by several bodies, including the Institute, about the difficulty in taking the Diploma in Public Administration experienced by would-be students who, for one reason or another, have not matriculated and are not able to study at the University itself. The University has responded to these representations by introducing a diploma to be called the "Diploma in Public Administration (University Extension and Tutorial Classes Council)."

Candidates for the new diploma must be not less than eighteen years of age, must have been in the public service for at least two years and must submit evidence of a satisfactory general education. An important point is that the scope of the examination will correspond with that which holds in the case of the existing diploma; and it is understood that the University will apply the same standards in examining the two sets of candidates.

The examination will be in the following subjects:—

### *Compulsory Subjects.*

- (1) Public Administration, Central and Local.
- (2) Economics (including Public Finance).
- (3) Social and Political Theory.

### *Optional Subjects.*

#### Group A.

- (4) English Constitutional Law.
- (5) English Economic and Social History since 1760.
- (6) The Constitutional History of Great Britain since 1660.

#### Group B.

- (7) Statistics.
- (8) The History and Principles of Local Government.
- (9) Social Administration.

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Candidates will be required to pass in three of the optional subjects, at least one of which must be selected from each of the two groups.

The examination will begin on the first Monday in July each year. The fee for the whole examination is five guineas, or two and a-half guineas for either part, if taken separately.

Full particulars may be obtained from the University Extension Registrar, University of London, W.C.1.

The Council of the Institute much appreciates the action of the Senate of London University in providing this additional facility and encouragement for the benefit of the junior members of the public service and for the good of the service itself, and it is hoped that there will be an adequate response. Members of the Institute are requested to call the attention of junior colleagues likely to be interested to the new opening.

Courses for the preparation of candidates for the examinations are being arranged forthwith by the Civil Service Educational Council, the National Association of Local Government Officers and the County Hall University Extension Centre. In the case of the first two bodies correspondence courses are available. It is hoped that steps to organise suitable courses will also be undertaken in the provinces.

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**Summer Conference.**—The Summer Conference of the Institute was held in Gonville and Caius College, Cambridge, from 2nd to 5th July, 1937. It was the first time the Conference had been held in this college, and all who attended were greatly pleased with the accommodation provided and with the arrangements made by the college authorities for the comfort of the temporary residents. On the social side the Conference was one of the most pleasant of all those which have taken place, and on the more serious side it was also an outstanding success. The discussions were full of interest, and the time allotted to them passed all too quickly. Sir George Etherton, Clerk of the Lancashire County Council, was a very genial and competent chairman, and the only regret was that he allowed too little time for contributions to the discussions by himself. However, on the last day he summarised the main points in a very lucid and helpful closing speech.

The discussion of Professor Plant's paper on "The Value of Economic Training for Public Administration" brought at the outset a succession of speeches in which the point was emphasised that the study of economic facts without regard to political forces, social aims and ethical values could be of little assistance to the administrator. The point was indeed over-emphasised; and it required an able speech from Dr. Finer to bring a sense of balance to the discussion of the subject. Dr. Finer said that it was the temptation of the administrator to assume that human nature was readily plastic, and also to ignore the existence of scarcity in the world; and the study of economics brought an objective attitude which was highly salutary. At the same time economists sometimes tended to accept as normal and permanent things which should rather be studied as conditions of disease. Further detailed study at the present time of waste, monopoly and the nature of incentives would be valuable. It was important to begin social investigations with what was measurable: it might be necessary to make sacrifices for the sake of greater good, but we should know what we are doing.

The succeeding phase of the discussion showed that there was no real desire to have the public services run by administrators who, as Dr. Finer had phrased it, were "idealists become despots"; and there was evidently general approval of Professor Plant's defence, in his closing remarks, of thorough analysis as the method by which to select an hypothesis for action or to ascertain the true incidence of costs, whoever might be called upon, politically and administratively, to bear such costs.

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Little attention was given to the question which Professor Plant had raised at the end of his paper of the possibility of timing postponable public enterprise with a view to meeting commercial depression. Perhaps members were deterred by his having said that this is a problem which "calls for economic training of a high order."

The "Measurement of Staff Output in Clerical Work" was the second subject considered. The discussion was opened by Major L. Urwick, whose contention that measurement of output was possible and desirable in the case of the work of higher officials was received with a good deal of scepticism, and there was also much doubt expressed about the desirability of introducing systems of measurement even for the ranges of work in which they are clearly practicable. It was urged that they harass the staff and alienate their good will. Human beings are not machines, it was said, and should not be treated as such.

The members of the Conference who expressed this point of view urged that the secret of getting good work done was to have good supervision and that where such supervision was exercised there was no need for mechanical speeding-up.

Replying to these criticisms, Miss Myra Curtis said that the main object of systems of measurement (which could only be applied to large units doing repetitive work) was to test and improve the quality of the supervision.

Major Urwick declared that the consent and co-operation of the staff could be obtained and that, with it, the results were excellent. Professor Elton Mayo described some experiments of the Western Electric Company in America which suggested that interest in their output on the part of the staff, however obtained, is the main thing.

The discussion of the papers on "Problems of a Local Authority in an Industrially Distressed Area" naturally provided rather a grim session of the Conference. Several of those who spoke were in close contact, personally as well as officially, with the problems, and a sense of the urgency and seriousness of the matter pervaded the meeting.

One speaker provoked a mixture of anger and amusement by advocating a return to pure *laissez faire*, with poor relief on the Victorian model: he found little support, though no one doubted his sincerity and sympathy.

There was emphasis from all sides on the point that the local authorities of the areas concerned could not themselves cope with the difficulties and that the problem was a national one. The alternative policies of "liquidation" and reconstruction were pretty fully examined, and there was agreement that the one thing necessary was that the country should make up its mind whether to save the derelict areas or abandon them. It was proposed that the local authorities should combine to urge this necessity.

The papers on "The Use of the Interview in Recruitment and Promotion" produced a lively but very inconclusive discussion, and it was evident that the subject demanded a good deal more attention than it was possible for it to receive on the last day of the Conference. The one point on which there was agreement was that the value of the interview was too often spoilt by the unfitness of the interviewers to conduct it.

Professor J. D. Kingsley, a welcome visitor from the United States, said that experiments in America showed that the interview contributed nothing which could not be better obtained by written tests if these were properly devised. Other speakers maintained that the personal touch was all-important, at any rate as a supplement to written tests, though the interview could not be as good as prolonged and intimate personal knowledge.

## *Institute Notes and News*

The discussion clearly had the effect of showing the need for closer attention to proper development of the technique of the interview, if it is to remain, as obviously it must, part of the machinery of public administration.

At the Business Meeting held in connection with the Summer Conference there were no definite proposals requiring discussion, and the time was devoted to a general consideration of the organisation and activities of the Regional Groups of the Institute. A special committee which had been appointed at the instance of the Council to investigate the subject had obtained reports from chairmen, etc., of the groups, and the main points of these reports had been summarised for the information of the members attending the meeting. A useful interchange of experience and opinions took place, and Mr. Howard Roberts, speaking as Chairman of the Executive Committee, undertook to bring the points raised to the attention of that Committee, with a view to the preparation of advice on them to the Council.

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**Research.**—A further volume has been issued under the Institute's "Spelman" research scheme, viz., "British Experiments in Public Ownership and Control," by Terence O'Brien, of Oxford and Harvard Universities. In this case, the London publishers are Messrs. Allen & Unwin and arrangements have been made by them for an edition to be published in New York by W. W. Norton & Co., Inc. This book and Mr. Simey's book on "Principles of Social Administration," the publication of which was noted in the previous number of the Journal, have both received a good reception in the Press. Both are reviewed in the present number of the Journal.

The various researches in hand by individual or paired researchers under the Spelman scheme are making progress. Meanwhile it is pleasant to receive reports that here and there research of a group character is being undertaken outside that scheme. In Sydney a research group has been set up, under the chairmanship of Mr. R. W. Willis, the Registrar-General of New South Wales, to investigate the subject of "Office Equipment"; and the Liverpool Regional Group is taking steps to organise some definite administrative research during the coming winter. Group activity of this kind must lead to valuable results.

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**Seventh International Management Congress.**—Following upon the successful Congress held in London in June, 1935, at which the Institute was represented, the International Committee of Scientific Management has arranged for the next Congress, the seventh of the series, to be held in Washington in September, 1938. The papers submitted to the Congress are to be written on the theme "Recent Developments in Scientific Management"; and Mr. A. L. N. D. Houghton, writing as a member of the Institute, will contribute a paper on the subject of "Reports on Staff," or, as our American friends express it, "Efficiency Ratings." This is a subject to which the public service has in recent years given much attention; and the Inland Revenue Department in particular has carried out valuable experiments, with which Mr. Houghton has been intimately concerned. Any member of the Institute who can afford, say, a hundred pounds, will find in the Congress an opportunity of visiting America in specially interesting circumstances and under very pleasant conditions.

# INSTITUTE OF PUBLIC ADMINISTRATION

## THE HALDANE ESSAY COMPETITION

It has been decided by the Council of the Institute that for the next Haldane Essay Competition the right of entry shall not be restricted to members of the Institute but that the competition shall be **open to members of the public service generally**. Accordingly entries are invited from civil servants and from officers of the municipal and other public authorities. The Haldane Prize of £10 and a silver medal will be awarded to the writer of the essay which is regarded as forming the most useful contribution to the study of Public Administration.

The conditions are as follows:—

1. Competitors may choose any subject which lies within the field of public administration. (Competitors are advised to take a subject which lies within their personal experience or of which they have made a special study.)
2. The competition is open to all members of the \*public services.
3. Copyright in the prize-winning essay is vested in the Institute of Public Administration and no responsibility is accepted for the return of essays to the writers.
4. All essays must be submitted under a *nom-de-plume*, the full name and address of the competitor being written on a separate sheet of paper and enclosed in a sealed envelope bearing the *nom-de-plume* on the outside. The envelopes to be opened in the presence of at least two officers of the Institute after the judges have given their award.
5. The award of the judges, appointed by the Council of the Institute, is final.
6. The length of the essay must not exceed 5,000 words.
7. All essays must be sent to the Secretary of the Institute not later than 31st March, 1938, the envelope to be marked "Essay Competition."

\* The term "public services" is defined in the Constitution of the Institute of Public Administration as including "the Civil Services and Local Administrative Services of Great Britain and Northern Ireland and of India, and of the Dominions and other possessions, protectorates, and mandated territories of the British Crown (including County Councils, City and Borough Councils, District Councils, Port Authorities and other public authorities), and also the League of Nations and other International Services."

PALACE CHAMBERS, BRIDGE STREET,  
WESTMINSTER, S.W.1.

October, 1937.

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